AUTHORIZATIONS FOR THE PUBLIC BUILDINGS SERVICE OF THE GENERAL SERVICES ADMINISTRATION

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

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AUTHORIZATIONS FOR THE PUBLIC BUILDINGS SERVICE OF THE GENERAL SERVICES ADMINISTRATION

FRIDAY, MARCH 26, 1982

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The committee met at 10:12 a.m., in room 4200, Dirksen Senate Office Building, Hon. Robert Stafford (chairman of the full committee) presiding.

Present: Senators Stafford, Chafee, Simpson, Randolph, and Moynihan.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. The Committee on Environment and Public Works will please come to order.

For the committee, we welcome our guests who are here today.

We are very pleased to have with us this morning Mr. Gerald Carmen appearing before this committee for the first time since he was confirmed by the Senate in early May as Administrator of the General Services Administration. That is May of last year, of course. We had, of course, met with Mr. Carmen shortly after he was selected by the President to take on the challenge and responsibility of operating and improving and perhaps in some way even reforming the housekeeping operations of the Federal Government.

I am sure at times it seems to Mr. Carmen that the landlord is never popular. But we trust he takes satisfaction from the opportunities that exist to implement better management and to establish clear policy in the public interest Operation of the Public Buildings Service, although often ignored or neglected, is no small concern. It is of course the specific jurisdiction of this committee. The PBS will obligate $2 billion in fiscal year 1983—a huge expenditure over which there has in the past been precious little congressional oversight or budgetary control.

Beginning at least 3 years ago this Senator, with the cooperation and assistance of then-Chairman Jennings Randolph, and especially the keen interest of Senator Moynihan and my colleague Senator Simpson, has attempted to fulfill its oversight responsibilities in the Public Buildings area.

We have, moreover, developed, after months of effort, legislation specifically directed to those policy and procedural concerns in which we could give legislative assistance and statutory direction.

The Senate passed that legislation, the Moynihan bill, S. 2080, in 1980, and again last year as S. 533, by the affirmative vote of 93 Members of the Senate, with no one voting in the negative, as I recall it.

Our hearing today may also be a milestone, for it follows the procedure and intent of that legislation. The purpose of today's hearing is to develop the fiscal 1983 authorization bill for PBS patterned after title VIII of S. 533 and which will be required annually hereafter as S. 533 is signed into law, something we very much hope to accomplish.

We believe this procedure will be a vast improvement over the hit-and-miss submission of prospectuses throughout the year—blank check proposals which come to the attention of neither the full Senate or House or of the President but which, in our experience, are simply pushed through by the parties at benefit, at whatever time they think is most propitious.

The legislation to which we are committed and which is supported by the Administration expresses our view that it is the responsibility of this committee, and I should think of any legislative committee, to give policy direction and to assist the executive branch in making decisions by defining the public interest. We hope and believe that Mr. Carmen and Mr. Haase are also so concerned. By working together on policy and direction, they should be enabled to make more rational, more defensible and more constructive the nuts and bolts decisions which are the proper province of the executive branch.

We welcome also Mr. Richard Haase who has direct responsibility for the operations of the Public Buildings Service. I think all of us who have met and talked with him have been particularly well impressed with the way Mr. Haase has taken hold in a short time. I hope Mr. Carmen will not mind our saying we have received very good reports on his approach to problems and his initial work in this difficult field.

Senator Randolph, do you have an opening statement?

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator RANDOLPH. Thank you very much, Mr. Chairman.

Mr. Chairman, I join you in welcoming Administrator Carmen and his associates to this hearing. Before we receive their testimony, I will make two points.

The first is to call attention to the purpose of this hearing. It represents a new procedure that we have developed over the past 3 years for considering the public buildings program. After 20 years of piecemeal approval of projects, we are moving toward an annual review and authorization of the entire public buildings program.

This approach is contained in our comprehensive revision of the Public Buildings Act which was passed by the Senate in both 1980 and 1981 and is now before the House. An annual authorization like that for nearly all other Federal programs helps us to bring order to public buildings activities. As we proceed with our consideration of 1983 projects. I look forward, this year, to enactment of our comprehensive reform bill.

My second point is to call attention to the presence in the GSA proposal of funds to restore the Pension Building as a home for the National Building Museum. Incidentally, the first legislation leading to creation of the museum originated in this committee.

The restoration of the Pension Building continues what I consider to be an important but little-noticed activity of this committee: The preservation and continued use of our Nation's older buildings.

Late last year we saw enactment of a bill to save Union Station. Work on the Old Post Office is nearing completion. Acting with GSA, we have brought about the restoration of the New York Customs House, the Nashville Railroad Station, the St. Louis Courthouse and other examples of our architectural and building heritage. I commend GSA for including the Pension Building in its 1983 program and anticipate the day when this long-ignored structure is brought back to its former glory.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Randolph.

Senator Chafee, do you have an opening statement?

Senator CHAFEE. No, Mr. Chairman.

Senator STAFFORD. Senator Simpson, do you have an opening statement?

Senator SIMPSON. Mr. Chairman, no; other than to say how much I have appreciated what you and Senator Randolph have tried to do with regard to public buildings programs, which are totally out of whack in my mind. I guess one of the first things I observed when I came here was being handed something and the chairman, doing his best to advise the members and always doing so in the most gracious way, polling out, and the total misuse of 11(b). I really believe that has to be corrected.

I have some questions, and I gather Mr. Carmen has not made his statement.

Senator STAFFORD. No, he hasn't.

Senator SIMPSON. So I will certainly wait and just say I do admire what you are trying to do. I have great confidence in you. I do think that you are getting some poor advice down deep in the ranks on 11(b). Hopefully we can help you correct that.

I thank you. I have some further remarks I will make later, Mr. Chairman. But I do admire what you are trying to do very much.

Senator STAFFORD. Thank you very much, Senator.

Now, Mr. Carmen, we would be very glad to hear any statement from you as Administrator of the General Services Administration.

STATEMENT OF HON. GERALD P. CARMEN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION, ACCOMPANIED BY RICHARD O. HAASE, COMMISSIONER OF PUBLIC BUILDINGS, GENERAL SERVICES ADMINISTRATION

Mr. CARMEN. Thank you.

Mr. Chairman, members of the committee: I am pleased to have this opportunity to appear before you today to discuss the fiscal year 1983 public buildings program of the General Services Administration. I am accompanied by Mr. Richard Haase, the Commissioner of the Public Buildings Service. In keeping with the objectives of the Reagan administration, Mr. Haase and I are working

together to reduce the cost of satisfying our Federal space needs and to make PBS a leaner, more efficient, and more cost-effective organization.

In the past, Federal space requirements have been increasingly satisfied by a reliance on an expanded leasing program. GSA's leasing budget increased from $390 million in fiscal year 1975 to $770 million in fiscal year 1983. More importantly, however, the practice of reporting these obligations on an annual basis disguised the true, long-term costs of the program. Finally, as our leasing program expanded, our ability to deliver space and buildings services in an efficient and cost-effective manner was questioned not only by Congress but also by our client agencies.

It is this trend and these attitudes which I am committed to changing. I believe that we have made substantial progress in a number of areas, and I expect to see further improvements in the near future. We look forward to cooperating with your committee in this effort and will keep you fully informed about our initiatives as we move forward in the coming months.

Our long-range planning and evaluation system will provide a comprehensive framework for our efforts to insure more effective management of our programs. In addition to better planning, we hope to be given authority to make use of all the tools which are available to the private sector. We need to have maximum flexibility to negotiate the most advantageous terms for the Government. I believe that with a full range of alternatives we should be better able to achieve lower cost solutions to our space management problems.

These tools include: The authority to design projects in advance of the year of planned construction start; The authority to purchase options to acquire buildings either during or at the expiration of the lease term; and the ability to act quickly on opportunity purchases of existing leased office buildings.

We are also reviewing the possible use of other tools which would give us greater authority over the space planning and space utilization decisions of other agencies.

Two complementary initiatives will have a substantial effect on GSA space inventory requirements over the next 5 years. First, the administration has made it clear that it is serious about reducing Federal programs and the Federal work force. We will be needing less space in the future, not more. As the reduction in Federal space needs is effected, our requirements for leased space will be reduced significantly. Leased space will be used to accommodate temporary and changing Federal agency requirements. Government-owned space will be used to satisfy more permanent, long-term agency needs. We project a 12-percent drop in the Federal population to be housed in GSA-controlled space by the end of fiscal year 1988. We are working now with the heads of executive branch agencies to examine their current space holdings and plan for an efficient consolidation in the future.

Second, I have directed a 20-percent reduction in space occupied by GSA. This reduction is well underway and will achieve a substantial cost savings for the agency. We expect that our example will be followed by other agencies as they address their office space utilization rates in the context of future space requirements. These

two initiatives, properly implemented, could reduce the GSA space inventory by approximately 50 million square feet by fiscal year 1988. The cumulative savings involved could approach $2 billion.

The present SLUC system is also working well as a means of controlling agency space requirements. As agencies see their rental payments taking an ever-increasing percentage of their limited budget resources, they have been coming to us to discuss ways to reduce their needs. The SLUC system is proving to be an effective disciplinary tool, and it is one which we support. We understand the concern of Congress about how the funds from SLUC are used or not used, and we welcome input in this area.

While we are concentrating on ways to reduce our leasing program, we have also given priority to the necessity for more timely acquisition of space to meet the needs of our client agencies. We have identified weaknesses in the procedures for the deliver of space and related services and have begun to put into place a number of improved management practices which will help to correct these deficiencies. Our streamlining of the cumbersome and extremely time-consuming acquisition of space process has already reduced the time it takes to execute a lease from 360 days to just under 200 days.

I am particularly proud of the cooperative effort which we have undertaken with the Social Security Administration to meet their space needs more expeditiously. We have worked with SSA to set priorities and timetables for leasing actions. We have significantly improved on our ability to deliver SSA space and are on schedule in meeting our commitments.

Finally, as we make progress in the leasing area, we are also concentrating on better management of the space inventory. Delivery of services to our tenant agencies is being improved by streamlining field operations and delegating increased authority to our field managers and clients. As part of this effort, we have undertaken a pilot program with three agencies to delegate full operational authority to them, under regulatory guidance which we shall provide, for buildings in which they are the sole occupant. We believe that this program should result in increased management efficiencies for both those agencies and GSA.

In the future, where certain activities can be more efficiently carried out by the private sector—cleaning, guard service, and so forth—these jobs will be contracted out. If individual agencies can operate the buildings more economically than ourselves, we will consider a delegation of authority to give them that chance.

In conclusion, Mr. Chairman, we are fully supportive of your committee's legislative efforts to see that GSA operates more efficiently while at the same time allowing the Congress to better exercise its proper role of oversight and policy formulation. Together we will be able to achieve our mutual objectives.

Thank you.

Now Mr. Haase would like to make a few brief remarks and go over for you the highlights of PBS 1983 program. We will then be happy to answer any questions.

Senator STAFFORD. Thank you very much, Mr. Carmen.

Mr. Haase, we might ask you to withhold for a minute because we are very happy to see Senator Moynihan has joined us. He has

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been one of the real moving spirits in trying to bring order out of chaos in the public buildings programs in this country.

Senator, do you have any opening statement?

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Mr. Chairman, just a few words. As you know, the National Commission on Social Security Reform is meeting.

I would like to welcome Mr. Carmen, and most especially thank you, Mr. Chairman. We have not yet been able to persuade the House of Representatives about the orderliness of the procedures envisioned by our law, but we are beginning to follow them ourselves. This is the first such hearing of this kind.

Senator STAFFORD. The Chair would just interject at this time. I recently had a conversation with Congressman Levitas, who chairs the subcommittee involved in the House, and there was indication for the first time that it might be possible to work something out.

Senator MOYNIHAN. Isn't that encouraging? I find it also encouraging that the new administration has set goals for public ownership, a ratio of Government-owned and leased spaces very close to ours. But I also notice that in their building program the actual expenditures and when construction takes place is 5 or 6 years out. That is going to be a pattern which until we enforce by law the actual expenditure in this year and next year is always going to be 4 and 5 years out, which is how we got into our present arrangement.

I would also like to note, if I can—and I hope we can hear in writing from the Administrator—that it appears that some of the moneys from the building fund are being used for nonbuilding units in GSA. Senator DeConcini was concerned about that. He, being the ranking member of the Appropriations Subcommittee, would like to get your response.

But mostly, Mr. Chairman, I would like to put a statement in the record and put some questions in, too, if I may.

Senator STAFFORD. Certainly.

Senator MOYNIHAN. We are setting a good example, and I think the merit of the procedure which you have set forth in legislation is precise. If we just stay here long enough, we will get it. If we stay here long enough, we will also get our social security. So if you forgive me, I will have to go back to the Commission hearing.

Senator STAFFORD. Thank you very much, Senator. Without objection, your statement will be part of the record.

[The statement follows:]

STATEMENT OF SENATOR DANIEL P. MOYNIHAN

Mr. Chairman, it is with considerable satisfaction that I mark this occasion. It is the first hearing of our Committee solely for the purpose of preparing an annual authorization bill for the Public Buildings Service of the GSA. For the past two years, we have included our annual authorizations in more extensive bills rewriting the public buildings statutes. That reform bill, having twice passed the Senate overwhelmingly, awaits action by the House of Representatives. I trust we shall hear from the administrator of GSA that he and the Administration hold firm in their endorsement of this fundamental reform of our authorization practices, and that they stand prepared to help us negotiate a bill with our counterparts in the House.

I am pleased, too, that we have before us other evidence that our reforms, though not yet law, are nonetheless working their way into practice. For the second year, the Public Buildings Service has produced a comprehensive and competent long-range plan that conforms to the requirements of section 801 of our bill.

Might I note that this latest public buildings plan corroborates once again the wisdom of the policy favoring building ownership that Senator Stafford, the other members of the Committee and I embraced when we first introduced our reform bill in December of 1979? At that time, we urged a ten-year program to place in Government-owned buildings eighty percent of the Federal employees housed by the GSA, and to decrease leased office space commensurately. We were criticized—primarily by the owners of buildings who lease to the GSA—for advocating this policy, which our preliminary calculations showed to be economically advantageous to the government in the long run. At the urging of successive Administrations, we watered down that requirement.

But then, in January, 1981, the long-range buildings plan prepared under the Carter Administration reported that exhaustive GSA studies proved our eighty percent figure to be just about the optimal goal for long-term economies. The February, 1982 plan, prepared under the current Administration, agrees; it reflects a goal of placing seventy-eight percent of the GSA-housed employees in Government buildings by FY 1988. In other words, GSA now proposes to attain our original goal two years ahead of our original schedule. Moreover, the plan projects eighty-six percent ownership by FY 1994. One is tempted to say, "I told you so."

I would state two reservations with the GSA plan and the proposed FY 1983 program, however. First, I see that GSA proposes to increase the proportion of employees in Government-owned space at least partly by decreasing the space occupied per employee. If our Federal workforce is, on the average, occupying more space per person than is the norm in industry, all well and good; let us use the space more intensively. But at some point, crowding will surely depress productivity and morale. And I wonder how GSA will be able to measure improvements in the utilization rate when we have seen evidence that GSA does not have reliable data on how many employees, from which agencies, occupy what space in the existing GSA space inventory.

Second, the GSA plan shows a need for $2.5 billion in construction or purchases between fiscal years 1982 and 1988 to reach the Government-ownership goals, but over half of that is not scheduled until the last two years of that period. The proposed FY 1983 construction program, set at $68.4 million, is a far cry from the $1 billion FY 83 program projected in the 1981 long-range plan. One can readily spot what is going on here. It is what we have seen happening for nearly twenty years in this program: necessary construction is continually postponed in the interest of short-term budget-cutting.

I can state to you a theorem of governmental capital budgeting in our day: construction starts adequate to the nation's needs never appear in budgets actually proposed by the executive branch; they are projected only for the future, when someone else will be President. If proof of this be needed, I point out that the new GSA plan shows a construction and purchase level of over $3 billion for fiscal years 1989 through 1992, while we learn that the OMB has cautioned GSA not to count at all on being allowed to proceed even with the more modest levels proposed by the plan for fiscal years 1984 through 1988.

Finally, I will say briefly that some of this problem must be laid at the door of the Federal Buildings Fund through which we finance the public buildings program. This Fund was supposed to encourage agencies to economize on their use of and demand for office space; it has not done so. It was supposed to generate substantial surpluses that would be used to finance building construction; it has not done so. It has turned into an off-budget, less-than-useful and poorly-accounted-for trust fund. One can only wonder at the other mischief it promotes when one learns that the GSA Administrator, in order to spare his agency the discomfort of the Administration's budget cuts, has exempted his own Archives Service from paying its fair share of rent into the Fund. Worse, he has siphoned revenues from the Fund to maintain the budgets of non-building units of the GSA. This latter action, I might add, is of questionable legality and was taken without informing us or seeking the approval of Senator DeConcini, the ranking minority member of the Appropriations subcommittee that has jurisdiction in these matters. I trust we shall be provided some explanation.

Notwithstanding these concerns, I welcome Administrator Carmen and his able Commissioner of the Public Buildings Service, Mr. Haase, to this hearing.

Senator STAFFORD. The Chair, without objection, will reserve to all Senators within a reasonable time the right to submit questions in writing to the Administrator.

Having said that, Mr. Haase, we would be glad to hear you.

STATEMENT OF RICHARD O. HAASE

Mr. HAASE. Mr. Chairman, and the distinguished members: I am pleased to be making my first appearance before your committee. I look forward to working with you on our new PBS initiatives as well as on legislation to establish public building policies for the Federal Government.

I would like to just expand somewhat on Mr. Carmen's remarks on our leasing program. I believe that our efforts to get leasing costs under control are absolutely crucial. In the past several years, the leasing program has been a captive of the forces of inflation, high interest rates, and the utility and property tax increases that have characterized the private rental market.

In order to decrease our vulnerability to these forces, we are going to have to institute a better long-term planning process and more carefully analyze the alternatives available to satisfy any given requirement. Our markets are changing. There will be a wonderful opportunity to allow us to negotiate on purchase option terms particularly favorable to us. We must develop procedures which will allow us to react to these opportunities if they arise.

Traditionally the institutional response to changing conditions has not been sufficiently flexible. In this regard, I think we can learn a lot from the way the private sector operates. If our planning process works the way it is intended to, we should be able to recognize a good opportunity and to capitalize on it.

Where it is in the best interest of the Government to do so, I want to be able to do the following: (a) Move quickly on leasing opportunities; (b) purchase options on leased buildings; (c) purchase leased buildings; and (d) exchange Government-owned land for other real property.

Private industry has developed a new range of procedures which allow them to adapt to changing real estate markets. We should be able to utilize these procedures to meet the needs of the Federal Government.

It is clear, however, that in many circumstances we are going to continue to lease to satisfy certain agency requirements. We are making significant improvements to assure the timely acquisition of space and we expect to see additional improvements in the near future. As we expect the space situation to be especially fluid in the next several years, we also must manage the space more efficiently. As space is released by an agency, we must move expeditiously to backfill a space or release it where this is appropriate and possible.

I feel GSA is also charged with preserving a sense of history in the form of its distinct architecture. It is easy to account for the actual costs of the preservation of historical buildings but indeed impossible to measure the contribution to history that this preservation enriches. Witness the Old Post Office complex in Washington and the Customs House in New York as evidence of this his-

torical contribution. Both of these complexes came close to becoming service parking lots and the architectural beauty and style lost for ages. Renovation of the Old Post Office is a living tribute to an architectural style in a period of our history that will be enjoyed for years to come.

We in GSA and particularly those of us in the Public Buildings Service live by the general rule of being dedicated to performing the duties of property management and space management. However, we also like to think we have a role in the preservation of history throughout our Government buildings.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Mr. Haase. I note you have some charts. I assume they are yours.

Mr. HAASE. Yes, sir.

Senator STAFFORD. Do those require some explanation before we get to questions?

Mr. HAASE. Yes, sir, I will just go over there, if you don't mind, Mr. Chairman. I can probably explain them.

Senator STAFFORD. All right.

Mr. HAASE. Mr. Chairman, these are two charts that have been compiled for the years 1971 through 1996, I believe it is. They show the ratio of the population housed in all PBS space, and you can see that there is a dramatic decrease between Government-owned in the red and the blue between 1971 and 1981. It is 53 to 47 percent.

If you look at the situation as we would like to see it from our building program and how we would like to compress the Government space and combine it with the decrease in the population and the getting more into Government space, you can see how these figures will change. We feel that by 1988 we should be in a posture of 78 percent Government housed to 22 percent in leased space.

What we are getting at, we are looking at our budget in PBS. Right now for fiscal year 1983 we are looking at $770 million in leasing costs. That represents actually a 7-million-square-foot space reduction for 1983. The costs are just going out of sight. By 1985, if this trend were to continue, we would be at a leasing posture of something like $1 billion, which we feel is totally untenable.

What our whole philosophy is, is to get more into Government space. If you look at the building program, you can see how it stretches out. We can't fulfill this entire requirement by just a building program. So the Administrator has professed these other methods of getting Government space into the inventory vis-a-vis buying existing buildings that house Government agencies, by getting something back for the space we do lease in the form of credits or reversion of the property to the Federal Government—tools that will allow us to reach this posture over the outgoing years.

Senator STAFFORD. Personally, the Chair thinks that is a very desirable way to go. That is something we have been anxious to have begin and to occur here for years. It has seemed highly objectionable to me personally that we went the other way, and found ourselves spending more and more in leases, that in the typical case we have a 20-year lease, at the end of which the building's builder has paid for his building, our lease has run out, and the taxpayers

have a horse collar for all the money they have spent, with only a chance to renew the lease at a new and much higher figure.

Getting our people into our own buildings in the long run will save a lot of money, I think, and be the way to go. I am pleased to see that is what you are proposing to do. I hope it works.

Mr. HAASE. If I were to take you back far enough, Mr. Chairman, you would see that in I think it was 1955, the ratio at that time was 80 percent Government-owned to something like 20 percent leased space. We have degenerated almost into this position right now.

Senator STAFFORD. Right.

Mr. HAASE. There is another chart here which I might cover briefly. It shows the Administrator's drive toward a combination of a utilization rate and a population drop, a 20-percent compression of Government space over a 5-year period, coupled with a 12-percent drop in the overall population, and the red line shows an as-is situation if we were to continue on this line. The green line shows the population drop by fiscal 1988. We are all talking in terms of fiscal 1988. The blue line shows that coupled with a utilization rate drop.

In other words, we are taking a hard look at the amount of space that agencies use, and in terms of dollars, we are trying to set up some kind of a standard, that we can use this standard to compress both leased space and Government space and eventually get out of leases and backfill into Government space. It shows a cost-effectiveness by 1988 of almost $2 billion. We are in this process right now, Mr. Chairman.

Senator STAFFORD. Very good.

Senator CHAFEE. Could I ask a question, Mr. Chairman?

Senator STAFFORD. Certainly.

Senator CHAFEE. You say a drop in population by 12 percent. You mean there will be 12 percent fewer Federal employees in 1988 than there are now?

Mr. HAASE. In hard numbers, Senator, it would amount to about 110,000 people in GSA-controlled space. The figures you see here are relative to GSA-controlled space. In the overall Government picture, I believe it is approximately 75,000 Government employees dropped by 1984, the balance by the end of fiscal year 1987, another 75,000. But of that 150,000, approximately 110,000 are housed in Government-controlled space.

Senator CHAFEE. Is that occurring? I often wonder. We eliminate regulation and we deregulate. I often wonder if there are fewer truck regulators now that we have eliminated regulation. Does that follow?

Mr. CARMEN. If I could speak to that question, in terms of GSA, since November 1980 I believe it is, GSA has reduced its size some 5,600 people out of the universe of 37,000 part-time and full-time people. Our numbers show we have already reached the 9- to 12-percent area, 10-percent area of reduction-in-force. We have done this through attrition, not through release of employees. In fact, out of those 5,600 people, only 183 or 180 have gone out the door through the RIF process. So far as we are concerned, we think it is a very doable process and we think we have proven it.

Senator CHAFEE. Thank you.

Senator STAFFORD. Thank you.

I would say to my colleagues, why don't we go on questioning on a 10-minute rule. We can pass back and forth.

The Chair is prepared to recognize you, Senator Chafee, if you want to go ahead, or if you want to defer to Senator Simpson.

Senator CHAFEE. I don't have any further questions.

Are we going to get into the specifics of some of these buildings that have been suggested?

Senator STAFFORD. You certainly may. That is part of the reason for this hearing.

Senator CHAFEE. Let's just take the Alabama Courthouse, Birmingham. Is this the process whereby we approve the Birmingham Courthouse?

Senator STAFFORD. This is the hearing and the actual mark-up will be at another time. This is a hearing. It is an opportunity to ask questions concerning any of these that you wish.

Senator CHAFEE. Could you tell me briefly about the Birmingham Courthouse? I am not for or against it.

Mr. HAASE. The Birmingham Courthouse, Senator, is a courthouse that is in the 1983 budget and is programed for approximately $30 million and will contain approximately 114,000 square feet of occupiable space, nine courtrooms.

Senator CHAFEE. Is there no courthouse in Birmingham now?

Mr. HAASE. There probably is a courthouse. It is too small to adequately provide space for what is needed in Birmingham at this time, my note says.

Senator CHAFEE. There must be an awful lot of new cases being tried in Birmingham if they leap from what they have to $30 million more. I don't know, Mr. Chairman. I am not exactly clear what we are doing here. Is now the time to go into these different buildings, which would take quite a while, or will the prospectuses come up and they will be considered separately?

Senator STAFFORD. The Chair would say what we are proposing to do here is to lay the groundwork for marking up a bill which would amount to an annual authorization for appropriations. This is what the bill we passed last year that is now over in the House requires us to do. It is a chance to produce an annual authorization instead of having a whole string of prospectuses come at us without prior notice and often without any real opportunity on our part to know whether we should approve a prospectus or not. This is the opposite of the very hit-or-miss situation we have followed for years. Finally, Senator Randolph and I rebelled on approving prospectuses when we didn't know what we were getting, and there were certain rumors flying around about the legality of some of the activities in the building construction under the prospectuses.

Senator CHAFEE. Mr. Chairman, do you wish us now to go into some detail? Would that be the theory? Put it this way: If we don't ask about the Federal building or courthouse in Detroit, Mich., is our silence considered assent and thus each building on this list will be approved and that ends it?

Senator STAFFORD. This certainly does not, by any means, waive an opportunity when we mark up to go into any of the items listed here in a more exhaustive fashion, that any member of the committee might wish to look at in detail. This would be a good oppor-

tunity, and it might be well, if Mr. Haase is prepared to do it, for him to run through the list of actually proposed construction and repair items that we have in front of us for the States involved and briefly, if he could, tell us why each one is on this list. Could that be done?

Mr. HAASE. Yes, Mr. Chairman. I can run through the fiscal year 1983 proposed new construction and acquisition. It is not too extensive, so I don't think it will take too much time.

In the fiscal year 1983 proposed construction and acquisition budget are included a predesign for the Washington Federal Triangle Building; a courthouse in Birmingham, which we just talked about, costing approximately $30 million; a Federal courthouse in Youngstown, Ohio; an addition to the U.N. Mission in New York, which will actually be a two-story addition above an existing auditorium in New York; and some miscellaneous smaller projects, under $500,000, amounting to $1 million.

There are three acquisitions of existing post office/courthouses located in Norfolk, Va., Sioux City, Iowa, and Greeneville, Tenn.

In addition to that just spoken about, there is an item of opportunity purchases in the fiscal 1983 budget amounting to $14 million. This would include some of the items that we spoke of, Mr. Chairman, as to increasing the Government-owned space.

Senator STAFFORD. Mr. Haase, in the acquisition of excess U.S. Postal Service properties that are listed in three States, is the purpose of this acquisition to take buildings and restore them and convert them to courthouses?

Mr. HAASE. No. Mostly they are converted. We are postured in the courthouses already. The Post Office has diminished their activity in it and we have a program of acquiring these post offices along the line. Usually there are courthouses in them already and that is why we acquire them.

Senator STAFFORD. All right. Thank you.

Mr. HAASE. I am finished with the fiscal 1983 budget, Mr. Chairman. I can go into detail. We have quite an extensive repair and alteration list, which I would like to submit to the committee, if you like. It includes—I am looking at the list—some 30 or 40 projects.

Senator STAFFORD. That is item four on the list we have in front of us, beginning with Alaska.

Mr. HAASE. Yes.

Senator STAFFORD. Why don't you run through that.

Mr. HAASE. OK. The States that have R. & A. projects for fiscal 1983 are Anchorage, Alaska, a courthouse; Phoenix, Ariz.; Little Rock, a post office/courthouse; a courthouse in Pasadena, Calif.; San Diego; Federal building in San Francisco; Denver, a courthouse; the Archives Building in the District of Columbia; the Auditors Building in the District of Columbia; Interior Department in the District of Columbia; the Liberty Loan buildings in the District of Columbia; the District of Columbia Pension Building; the West Heating Plant; a post office/courthouse in Miami; the Court of Appeals in Atlanta; Federal Annex in Atlanta; post office/courthouse in Lafayette, Ind.; South Bend, Federal building and courthouse; in Baltimore a depot; in Suitland, an Oceanographic building, in Maryland; a Federal building/courthouse in Detroit; two Federal court-

houses in St. Louis; a depot in Bayonne, N.J.; a building in New York; a building in Asheville, N.C.; a courthouse/post office in Cincinnati, Ohio; a building in Portland, Oreg.; a post office/courthouse in Pittsburgh; a building in Fort Buchanan; a Federal building/ courthouse in Hato Rey, San Juan, P.R.; the Terminal Annex in Dallas, Tex.; IRS Center in Ogden, Utah; a building in Alexandria, Va.; post office in Alexandria, Va.; post office/courthouse in Norfolk; Federal building/courthouse in Seattle; Federal building/ courthouse in Yakima, Wash.

Senator STAFFORD. Mr. Haase, all of these items you have listed under renovation, repairs and alterations, and the other items under your first three subjects, have they been recommended by the President and are they in his construction budget?

Mr. HAASE. Yes, sir.

Senator STAFFORD. Have all of them previously been requested through the prospectus route or some other thing similar to it?

Mr. HAASE. Yes, sir.

Senator STAFFORD. You have prospectuses with respect to each then?

Mr. HAASE. Every one over $500,000, yes, sir.

Senator STAFFORD. I believe the committee has been furnished with copies of the Public Buildings Services management plan for 1982–88. Is there a detailed sheet on each one of these proposals within that?

Mr. HAASE. Yes, Senator.

Senator STAFFORD. So any member who wishes to may examine the details of each item in that book.

There is one item that is listed in Georgia, the Atlanta Court of Appeals, $7,702,000. The Chair has talked with a member of the U.S. circuit court of appeals based in that courthouse and has received a letter from the chief of that court of appeals and has seen a large series of pictures with relation to the courthouse. The exterior structure of the courthouse is apparently still solid, but the interior, as I look at the pictures and talked with the Justice in question, is obviously rapidly going to pot. Apparently the roof leaks, pipes are leaking, toilets are leaking. Federal records have been damaged and virtually destroyed in some cases. Some areas of the building have had to be evacuated during rainstorms. A couple of weeks ago one of the two main boilers, both very old, apparently failed completely.

This convinced the chairman that in this instance we had an appropriate emergency which I would consider would justify going the prospectus route to get this taken care of before the circuit court of appeals has to evacuate the building completely.

I would throw that out for consultation with my colleagues on the committee, without whose approval I wouldn't consider the prospectus route. But it does in my personal judgment fit the description of what I would be willing to consider an emergency.

Mr. CARMEN. Mr. Chairman, we are waiting for a prospectus to be approved on that. But we are doing emergency work now, trying to hold the fort.

We might note in our request for funds for 1983 an increase of $58 million there. We recognize the maintenance on Federal prop-

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erty has been inadequate all across this country, and we are trying to move ahead on that and deal with it.

Senator STAFFORD. If an emergency authorization were provided now, Mr. Carmen, would you be prepared to request from the Appropriations Committee reprograming authority so that repairs could be attempted or could be initiated on the Atlanta Courthouse building?

Mr. CARMEN. I would like the opportunity to answer that question in writing and look into it.

Senator STAFFORD. All right, fine. (See p. 24.)

It is an old building, but as I said at the outset, it apparently is structurally still sound as far as the walls and base structure are concerned, but broken pipes and broken boilers and broken toilets are rapidly destroying the interior and making it uninhabitable.

At this time, Senator Simpson, do you have questions? We will gladly yield to you.

Senator SIMPSON. Was that the project where the judiciary wrote their own prospectus? I think I recall that.

Senator STAFFORD. No.

Senator SIMPSON. It was very impressive. I remember that. Had a good visit with the judge. Certainly something needs to be done with regard to that facility.

Senator STAFFORD. When you think of the whole circuit court of appeals without a bathroom in their courthouse, you have an emergency.

Senator SIMPSON. It would accelerate litigation.

Mr. Chairman, let me just kind of ask a little bit of a rambling question and ask Mr. Carmen to perhaps field portions of it.

I would just like to review this situation where we have the 11(b) report system. Let's take a little one from the scenario.

On February 26, 1982, the GSA submitted to Congress an 11(b) which had been ordered up by the House Public Buildings Subcommittee. It recommended construction of the Federal office building in Chicago at an estimated cost of $92 million.

Representative John G. Fary from the Fifth District of Illinois is chairman of the House Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation. The Fifth District is in Chicago. Just a brief chronology, if I may.

The House requested the 11(b) project report last August. Officials at GSA related to the Senate staff that the Administrator had earlier in the year rejected the project and sent it back to the Public Buildings Service. The prospectus it provided alludes to the question of whether the building was necessary at all and stated that the project was not in GSA's list of project priorities over the next 5 years, suggesting, I think, "GSA will reassess the need for the project before awarding any construction grants."

On February 18, 1982 the House committee announced a hearing in Chicago about the public building needs. On Friday, February 26, the GSA submitted an 11(b) report to OMB which recommended construction of the Federal office building in Chicago at a cost of $92 million.

On that same day, the GSA hand-delivered the 11(b) to the Senate and House committees.

On Monday, March 1, the House committee conducted hearings in Chicago, chaired by Representative Fary, chairman of the Subcommittee on Buildings and Grounds, in his own district, and the primary elections were held in Chicago on March 16. Congressman Fary was defeated in that primary; yet the House continues to push the Senate Committee on Environment and Public Works for their recommendation as to this plum for Representative Fary.

No opportunity was ever provided for OMB or the administration to comment before the Chicago building proposal was submitted to Congress. This is the usual case for 11(b) reports.

The reluctance of GSA to approve its projects in the early emergence it seems to me warrants some more in-depth study than an 11(b) can provide. That would be my humble opinion. Why should not the determination of need be made before recommending a construction project to Congress? Why should not the Congress make such a determination before the authorizing and appropriating process? GSA says they will not seek funding for the Chicago project until 1988. What is the rush then in submitting a proposal 6 years before it will start? Cost estimates can surely not be accurately projected that far ahead.

I guess this is the troubling thing. I really am seeking your response. It is reported, at least as to reply, Mr. Carmen, you signed off on the Chicago 11(b) because you were told that it was "only a report" or "a request for a survey" and also that it could "do no harm."

Now, I am sure that the officials who signed the project are here today. I hope so. Maybe we can certainly get some things corrected for us. But I expect that it was apparent that great pressures were brought to bear, tremendous political pressure. In any case, I think it is correct that 11(b) reports, there is no question about the harm they can do and they are not requests for surveys. In fact, if you go to the language, it says, under 11(b), "Such reports shall contain all other information required to be included in a prospectus of the proposed public building project under section 7(a) of this title." Now, that is quite clear as to what 11(b) is. It is not just a cursory recommendation or report or request for a survey. It is the whole hog.

In fact, for the nine buildings, it is stated that these reports contain all of the information I have just indicated. I can tell you when they arrive on the Hill that they are not treated like surveys. They are treated like a super-heated projectile fired at Congress. And as flagrant as the Chicago situation is, I think it is only an example of the large underlying problem. I have no time today, but I could go on with numerous other projects ordered up under 11(b).

I have been here 3 years and I have seen enough. Notwithstanding the very limited construction program at GSA, there are now two buildings under construction for the former chairman of the House Subcommittee on Buildings and Grounds. The last chairman did not get a building in his district, but there was one going up there already so it didn't really have that urgency. A building in Chicago would mean a good batting average of about three for four of the last subcommittee chairmen with a major Federal building approved in their district. Of course, you all recall the last chairman of the full committee, the Honorable Biz Johnson, received

the go-ahead in Redding, Calif. That already had a courthouse. They didn't want the courthouse, and the Agriculture Department didn't need the space they were building it for, which was fascinating to me. I was pleased to see we shut that one down. It did receive approval, however, if anybody watched it, for funding in the last continuing resolution. There it was. The money was never allocated, and hopefully it never will be.

I just wonder how long we are going to go through this continual war to handle these pork barrel projects. I can only say without Senator Stafford and Senator Randolph and Senator Moynihan and Senator Chafee and some of us that are trying to do something that this just "business as usual" won't cover it anymore. Of course, that would mean the passage, I think, of S. 533 would be a remarkable step.

I won't go on. I appreciate the time, Mr. Chairman. But let me just say we have a Boston building perking and a Springfield, Mass., building with powerful members of the House and two buildings germinating there. Out of 11 major buildings now under construction, 9 were ordered up under 11(b). I really don't want to hear any more, it is just a little survey report; 9 of 11 under 11(b). So that means only two went through the normal review proceedings, and were recommended by the executive branch. Most of those buildings were initiated by the Public Works Committee of the Congress.

The public buildings program is not run by the executive branch, not even by the full Congress. The priorities and decisions on buildings are made by the Public Works Committees, and we finally have done something over here.

By the very nature of the beast, 11(b), what it does is simply bypass OMB. It is out of control. OMB knows it. That is the major reason they support S. 533. If we can get back on some kind of annual process, and that is what S. 533 would be, get some priorities established, and prepared where the full Congress acts on a $3.5 billion project, which I believe is the first time we have ever even looked at it around here, because it was always going out through the prospectus process, and then we would dilute that and distorted it through 11(b). Then we get back to getting a handle on $3.5 billion.

Well, I just want to be certain, and I hope you will answer this long, rambling question, but I think I needed to say it. I feel that you are receiving advice from those in GSA down there, who have been here longer than I have and who will be here long after you are gone, and that is the way they exist best, that this fight, so-called, on S. 533 is some interesting scrap between the Senate and House, and that it does not concern GSA and that you should not get involved. I have heard that you believe that the administration may have been sold a bill of goods on that particular legislation which passed the Senate by 93 to 0.

I hope those things are not so. I think what I see you trying to do, that the passage of that legislation would be clearly in your best interest and that you should actively pursue it.

Chicago is a classic piece of evidence on that. The other classic pieces are nine out of eleven are going up through the 11(b) process and were not recommended by the administration, which shows

that the program was totally out of control. I think the administration understands that. I always think, beware of sleeping dogs, and that is a dog if I ever saw one. Nothing ever dies around this place. But that thing is still authorized, still on the books, and the old chairman is still around. Hurriedly once authorized, it is authorized forever. That is what this bill would do, is stop that obscured process. It would be dead now if S. 533 were in existence.

Well, without some changes, you are just going to—whatever you tell us is nice. Your charts are nice, but it won't make wit. Until you get a grip on that, we are just going to have a larger and larger backlog of authorizing projects acting like steam in a pressure cooker, and that will simply blow the lid off expenditures and we will never get a handle on it.

I admire what you are doing. I mean this sincerely. I have great confidence in you, Mr. Carmen. I admire you greatly. I think you are getting some very poor advice.

Thank you.

Senator STAFFORD. Thank you very much, Senator Simpson. The Chair would only make this observation at this point, and that is having watched these things go on now for two terms in the Senate, Mr. Carmen, Mr. Haase, you are the first two that have come up here who have not been visibly frustrated at the end of your first year in office. So I think you must be doing something right down there.

If we can pass S. 533 through both houses and get it signed, I think, that much of the trouble that has bothered us on this committee for years, will be put to rest.

Mr. CARMEN. Thank you. If I might deal with it just a little bit.

Senator SIMPSON. I almost forgot it was a question. I am sorry.

Mr. CARMEN. I would like to tell the chairman I don't think either one of us are frustrated. Mr. Haase, of course, has only been there 3 months. It may take a little longer. But we are kind of excited about our job Every day we are there we think we have saved the Government a little money and we think we have accomplished a little something. So I think we both would leave our jobs when we get to that point. But we don't expect to.

When I took over GSA—and I have to tell you this, Senator. You are the first one who thinks I have been taken over a little bit by the bureaucracy. Most of the people at GSA don't think that. But a little of our philosophy when we got there at GSA. We thought that the whole agency needed a lot of caring and tending to. We had a lot of problems. We wanted to be part of this administration, to bring our costs down, to be more efficient, to try to make the agency run a little better. We went about the business of doing that. That meant we had to deal with daily problems, almost on an hourly basis, and it occupied pretty much of the 10 months we have gone through. I think we have done a reasonably good job for that period.

The question of 11(b), in our mind, and I am familiar with the Chicago 11(b), and we were careful in the language which we signed in that particular bill——

Senator SIMPSON. You were what?

Mr. CARMEN. Careful in the language of that proposal in terms of the legislative mandate, for 11(b) really was legislative.

On the approach on handling GSA in the public buildings sector, the first year we were there, we felt that our real job was to make that agency run better within the laws, regulations and rules that existed and not to get caught up in changes that should come out of the legislative process. And we did that and we moved out on that.

As to support of S. 533, the administration supports it; we support it. We also support the negotiation with the House in order to get something through the Congress of the United States. We recognize that as a political problem and you can be sure, because I have discussed this with my Commissioner of Public Buildings, that we are looking to the opportunity that even when we look at 11(b)'s, of stating that we don't recommend them.

Now, we really haven't reached that stage because we are just getting into that stage on the 11(b) process. I have discussed this with Dick and others of my staff, that I don't feel that the law makes us recommend or acknowledge the need of something that we truly don't believe it ought to be. You can expect even on 11(b)'s as they start coming to the House or to the Congress that GSA will state a position on those 11(b)'s.

Senator SIMPSON. Mr. Chairman, I believe you probably will state a position on 11(b) and I believe then you will be rolled. That is what I am talking about. You will be rolled by the House of Representatives. At the present time they hold the hammer; is that not correct?

Mr. CARMEN. I don't know if rolled is a correct term, Senator.

Senator SIMPSON. We have another one in Wyoming, but I won't use it here.

Mr. CARMEN. We do in New Hampshire, too, but they are working on me not to use the language we use up there. But what I mean is the political process is such that we are not in a position as a Government agency, as the head of a Government agency, to say that the House is wrong or the Senate is wrong or the Congress is wrong. The political process should determine the procedures that we use, and we carry out those rules and regulations.

So the answer to your question really is that I am hopeful that S. 533 will go through. I am hopeful that the negotiations with the House will go through and that this problem will no longer be there.

Senator SIMPSON. Is it not a rather effective effort if the House staff contacts you and says either you release and approve the 11(b) on that project or we won't bother to respond to your further phone calls? That would be a rather effective method of getting your attention.

Mr. CARMEN. That has not been done.

Senator SIMPSON. Nothing like that?

Mr. CARMEN. It has not been done at my level; no. Senator, I would not respond to that kind of treatment.

Senator SIMPSON. I don't believe you would. I wouldn't. But I believe some do or we wouldn't see what we do with regard to 11(b)'s before primary elections and such marvelous timing. Chicago is not the first. There was a project in Milwaukee, I remember, Mr. Chairman, urban development grants. I got to observe that. Then we had Mr. Johnson.

I have a catalog, a tattered little packet, of ones like that. Enough, Mr. Chairman. You have been more than courteous. I have some further questions on the Pension Building. I will submit those in writing and ask for a response. (See p. 1.)

I thank you, Mr. Chairman. I thank you, Mr. Haase and Mr. Carmen. God bless you as you continue your dogged efforts.

I just know, hearing one Senator, they will never even build a pesticide shack in Wyoming because of my conduct in these last 3 years. The House will assure that. I thank you very much.

Senator STAFFORD. Thank you very much, Senator Simpson. You and I may both find ourselves with a building named after us but once again I won't mention what it is here.

Mr. Carmen, Mr. Haase, the budget contains $3.5 billion, as you proposed it to us, for preliminary design of a building to complete the Federal Triangle in Washington. I understand the construction of this building when it occurs would be on the level of some $350 million, current dollars projections.

Given the tight budget restrictions we are likely to be facing in the foreseeable future, is it realistic to anticipate such sums for one building in Washington? I guess I am asking you whether or not it makes sense to authorize money to design this project before we have any assurance the construction funds will be available for its actual building.

Mr. CARMEN. Given the cost of housing and leasing in Washington, D.C., and the amount of it we have in Washington, D.C., and the planning which we have for the LDA's to put the Federal Establishment in Federal buildings, it seemed prudent to spend $350 million to move forward on a planning basis. Whether it does evolve into a very costly building or not, we don't know. But $350 million seemed to make some sense in our planning process.

Senator STAFFORD. Like Senator Simpson, I have a number of questions on the Pension Building item which I will submit to you in writing. We will try to work it out where we don't duplicate questions between Senator Simpson and myself.

The Chair will again note that we are reserving the right—we did it without objection—to all members of the committee to submit questions in writing for response in writing, particularly Senator Gorton, along with the rest of us who have said so, who will have some questions in writing for response in the record.

Finally, the Chair simply as a gentle reminder would remind Mr. Carmen and his associates in GSA that insofar as S. 533 is concerned, the job of working out and negotiating an agreement there has to exist between this committee and our counterpart in the House. Any moral support we get from you or the administration we are glad to have. We will have to carry out the actual negotiations there.

At the request of Senator Heflin, the Chair will leave the record open for a reasonable time to afford him an opportunity to submit a statement regarding the construction of the courthouse, which must be in Alabama since it is important to him.

[The statement follows:]

STATEMENT BY SENATOR HOWELL HEFLIN

Mr. Chairman, I would like to address the FY 1983 Public Buildings program as proposed by the General Services Administration. Specifically, I would like to focus on the proposal for the construction of a new Federal Courthouse in Birmingham, Alabama. The construction of this new Courthouse is long overdue and is desperately needed in order to adequately meet the needs of the United States District Court for the Northern District of Alabama.

As you know, the Senate Committee on Environment and Public Works adopted a resolution in 1977, which directed the General Services Administration to assess the need for the construction of a new Federal Courthouse in Birmingham, Alabama. After evaluating the existing Federal space in Birmingham, the General Services Administration concluded that a critical need existed for the construction of a new Federal Courthouse in order to provide adequate facilities for the current and future requirements of the U.S. District Court.

The need for a new Federal Courthouse in Birmingham was recognized many years ago and was subsequently compounded by the passage of the Omnibus Judgeship Act which provided for the addition of three new judgeships for the Northern District of Alabama. These new positions were needed to meet the increasing demand facing the Federal Judiciary. New Judgeships, however, meant that additional space would be required to house each judge. This imposed additional demands upon an already overcrowded Federal Courthouse plagued with severe space limitations.

The construction of a new Federal Courthouse would not only serve the current requirements of the Federal Judiciary, but would also provide for the consolidation of existing Federal offices into the present courthouse facility. In this regard, the importance of acquiring a new facility becomes twofold; first, the removal of Federal Agencies from rented office space to a Federally owned building, and second, the resulting increased efficiency of Federal service to the region. At the present time, the General Services Administration leases space at approximately 11 locations at an annual rental cost in excess of $1.5 million. The leased space houses approximately 22 Federal Agencies. This clearly indicates the need for the consolidation of these various agencies into one facility in order to provide for a more convenient service to the public and to reduce the complexities associated with managing these dispersed agency locations.

Under the General Services Administration proposal for a new courthouse, the District Court would be transferred to the new facility with the existing facility being utilized to house Federal Agencies. The new Courthouse would include 9 courtrooms totaling approximately 15,300 square feet of space or an average of 1,700 square feet per courtroom.

It is without doubt that the existing Federal Courthouse in Brimingham is inadequate to meet the needs of the United States District Court for the Northern District of Alabama. The construction of a new facility is absolutely esential to alleviate the constraints that are presently burdening the United States District Court in Brimingham. Past Administrations as well as the present one have recognized the dire need for this project and I urge my colleagues to likewise approve this $29.5 million appropriation for the construction of a new Federal Courthouse in Birmingham, Alabama.

Senator STAFFORD. If there is nothing further at this time—are there further statements either Mr. Carmen or Mr. Haase you care to make?

Mr. CARMEN. No, Senator.

Mr. HAASE. No, thank you, Mr. Chairman.

Senator SIMPSON. Let me express my appreciation on behalf of the committee for your being here this morning.

The committee stands adjourned.

[Whereupon, at 11:23 a.m., the committee was recessed, to reconvene subject to the call of the Chair.]

[Responses to written questions follow:]

QUESTIONS FROM SENATOR STAFFORD

S. 533, Public Buildings Act of 1981

Question

1. Mr. Carmen, as you know this Committee has worked long and hard to enact new legislation in the public buildings area. Last May the Senate passed S. 533, the Public Buildings Act of 1981. The Administration is on record in strong support of this bill which is pending in the House. We also have their commitment to help us work toward its successful enactment. Can we have a reaffirmation on your part that you support the bill and will work to secure final passage?

Answer

1. GSA supports S. 533 as passed by the Senate, with the exception noted by Mr. Frey, in his letter to your Committee dated April 30, 1981. I certainly support the Administration's position on this legislation, and will cooperate with your Committee in every way to help secure final passage.

Method of Authorization

Question

2. In the past, the major disagreement with House centered around the method of authorization -- whether by an annual bill as called for by the Senate bill or by piecemeal Committee approvals of individual prospectuses. It is this feature of the Senate bill which has had the greatest support of the Administration. I would encourage you to do what you can to represent the Administration's position. I understand that you have held discussions with the House. Could you characterize your efforts to date?

Answer

2. Our discussions with staff members of the House Committee on Public Works and Transportation have centered on the development of our Public Buildings Service Management Plan for 1983. We believe our planning process is now functioning smoothly and systematically. We have discussed with the staff our hopes for ensuring the swift approval of our annual program once submitted.

OMNIBUS JUDGESHIP ACT (P.L. 95-486)

QUESTION

3. The Omnibus Judgeship Act placed a great demand on GSA to provide new courtroom space for judges all over the country. We have heard from a number of judges from various parts of the country. Some say the court facilities should be provided more swiftly. I note that most of the construction budget in 1983 and a large proportion of the repair budget is devoted to this undertaking. Yet I note that some courthouse projects are postponed to fiscal year 1984 or even later. Have you carefully planned the courtroom requirements and can you confidently state that those projects that are truly needed now are budgeted while those postponed can be delayed without hardship?

ANSWER

3. The Omnibus Judgeship resolution passed by the Senate Committee on Environment and Public Works approved projects at 22 locations. Of these projects, one (Detroit) is no longer required for Omnibus Judgeship space alterations, and one (Denver) is pending prospectus hearings with the House Committee on Public Works and Transportation.

The remaining 20 projects have had funds appropriated except for the Alexandria, Virginia, location which is included in our Fiscal Year 1983 funding request. The other projects have been appropriated during Fiscal Year 1980, 1981, and 1982.

The projects require design, bid solicitation, contract award, and construction phases. The projects have not been postponed. The Fiscal Year 1984 time frame referred to would be the completion of this entire effort. The projects have been coordinated with the Administrative Office of the U.S. Courts for scheduling.

ATLANTA COURT OF APPEALS PROSPECTUS

QUESTION

4. I would like to turn momentarily to a particular repair project. The 1983 budget contains $7 million to renovate the Court of Appeals building in Atlanta. I have recently reviewed the condition of this court building with one of the judges who occupies the building and I am satisfied that work is urgently needed now. If an emergency authorization were provided now, would you be prepared to request from the Appropriations Committees reprogramming authority so that repairs may begin?

ANSWER

4. We are concerned with the condition of this building and its systems. If an emergency authorization is received, we are prepared to seek reprogramming approval from the Committees on Appropriations to initiate this project prior to Fiscal Year 1983.

Federal Triangle, Washington, D.C.

Question

5. The budget contains $3.5 million for preliminary design of a building to complete the Federal Triangle in Washington. I am told that construction could cost $350 million. Given the tight budget restrictions we are likely to face for the foreseeable future, is it realistic to anticipate such sums for one building in Washington? Should money be authorized to design this project before we know whether construction funds will be available?

Answer

5. The proposal is ambitious, and it would, as you know, require a large share of the total projected construction and acquisition funding for any single fiscal year. However, we believe the project is of sufficient value that it would be well worth the cost and would be the most cost-effective long-range method of housing Federal agencies in this city. In addition, the building would among other things, serve to complete the historic Federal Triangle, and provide a considerable block of Government-owned space in which to relocate Federal offices from expensive leased space.

Preliminary design money would ensure the Congress and the public that the final product was desirable and in fitting with the nations overall goals and objectives prior to reaching a "fail-safe" point in the project. The preliminary design, although it is a substantial amount of money, would only constitute about 1% of the total project cost.

PENSION BUILDING

QUESTION

1. In accordance with the terms of Public Law 96-515 and the proposed cooperative agreement what is the degree of financial support to be given by the Federal Government to the National Museum of the Building Arts? Please distinguish between those financial obligations directly assumed by the Federal Government and those resulting from foregone revenues.

ANSWER

Public Law 96-515 authorizes the Secretary of the Interior to provide matching grants-in-aid to the National Building Museum (NBM) up to $500,000 per year.

Other "financial obligations" assumed by the Federal Government include the cost of:

a. Making the site available without charge.

b. Renovating the building.

c. Maintaining and protecting the building.

QUESTION

2. Does the proposed cooperative agreement adequately protect the equity interest of the Federal Government and the American people in the Pension Building? Will the Pension Building remain at all times a public building under the control of GSA?

ANSWER

The cooperative agreement is now being negotiated. It is one of the Government's goals in the agreement to adequately protect the equity interest of the Federal Government and the American people.

The Pension Building will remain at all times a public building. The control of the use of the building will be defined by the cooperative agreement.

QUESTION

3. Does the proposed cooperative agreement provide for both the institutional and the physical growth of the National Museum of the Building Arts?
   a. Is recognition given to an expanding set of functions and responsibilities of the Museum over time?
   b. Have provisions been made to allow the institutional growth of the Museum to be translated adequately into the use of increasing amounts of space in the Pension Building?
   c. Is there adequate oversight over the process by which the Museum develops its programs and grows into its new home?

ANSWER

The cooperative agreement, now under negotiation is intended to provide for the growth of the NBM in the Pension Building.

   a. The agreement will list the functions of the NBM as authorized by P.L. 96-515.
   b. The agreement will provide a mechanism by which the area devoted to the NBM occupancy may increase as required, upon request and justification by the NBM.
   c. The adequacy of the oversight over the NBM programs and growth is now a matter of negotiation with the NBM.

QUESTION

4. Does the planned renovation of the Pension Building permit its potential use by the Federal Government for non-museum purposes were the proposed museum not to succeed? In the event of such an unfortunate failure, are all Federal financial and property interests protected?

ANSWER

The planned renovation of the Pension Building provides for portions of the building to be used as a Museum and the remainder as office space for Federal agencies. Should the Museum fail it is expected that the Museum space would have to be altered for use as office space.

QUESTION

5. What are the duration and renewal provisions of the proposed cooperative agreement? Can it be terminated for cause?

ANSWER

The duration, renewal and termination provisions of the proposed agreement are now under negotiation.

QUESTION

6. There is currently a highly undesirable contrast between the well-mentioned quarters of the National Building Museum (the successor organization to the Committee for a National Museum of the Building Arts) and the rest of the Pension Building. Will the Office of the Administrator of General Services ensure that adequate maintenance procedures are established and implemented for the Pension Building as a whole?

ANSWER

It is planned that adequate maintenance procedures will be established and implemented for the entire Pension Building.

QUESTIONS FROM SENATOR RANDOLPH

Question

1. Several times in the past year, members of this Committee have sent you questions concerning GSA's implementation of the Public Buildings Cooperative Use Act and you have provided us with answers promising greater efforts to open Federal buildings to public use. Yet we now learn that over one year ago, GSA issued new regulations governing assignments of public use space and collection of revenues for temporary uses, regulations that may impede effective administration of the Act. Please provide us with copies of all GSA regulations or other internal policies or procedures related to the Cooperative Use Act. Please include with this material an explanation of your reasons for those regulations and policies.

Answer

1. With regard to the leasing of space in buildings of historical, architectural, or cultural significance, procedures have been implemented under the authority of the Act whereby such properties are given the first opportunity to satisfy a requirement for leased space. Attached is a copy of Appendix B, "Leasing Space in Historic Buildings" of the GSA Handbook, Acquisition of Leasehold Interests in Real Property, PBS P 1600.1A, which details these procedures. Although the date of the latest publication of the handbook is June 22, 1981, the policy was first instituted in September 1977 and released to the Senate Committee on Environment and Public Works under the title "The Public Buildings Cooperative Use Act of 1976: Implementation Progress Report". We believe the guidelines fulfill the Act's mandate to the Administrator to acquire space in historically significant buildings whenever feasible and prudent.

Two subsequent policy issuances are also attached.

The memorandum of January 5, 1982, amends policy by no longer initially restricting solicitations for offers to owners of historic properties, although preference for the acquisition of space in historic buildings is still given and that preference is stated in the solicitations. The purpose of this policy is to reduce the timeframes for lease acquisition projects.

The memorandum of February 1, 1982, supplements existing policy regarding succeeding leases. If a proposed succeeding lease agreement can be obtained, the circumstances of which meet a 5-point criteria, competitive offers, including those from historic buildings, need not be solicited. The purpose of this policy is to reduce timeframes as above and allow the government to select the lowest offer as to price.

Appendix 2

June 22, 1981 PBS P 1600.1A

Leasing Space in Historic Buildings

1. The Public Buildings Cooperative Use Act of 1976 (P.L. 94-541) requires that GSA utilize historic properties whenever practical. PBS has established a policy where historically significant properties are given the first opportunity to satisfy a requirement for leased space. The procedure for determining whether to lease a historic building is as follows:

a. When a request for leasing action is received in the Acquisition Branch, the Realty Specialist should review a list of historically significant buildings which is maintained in the Operational Planning Staff. The list is prepared in coordination with the Advisory Council on Historic Preservation (ACHP) and includes properties and districts of properties which are actually in or formally listed as eligible for the National Register of Historic Places. The Realty Specialist should note any properties on the listing which could conceivably satisfy the Government's space need within the required geographic area.

b. In space actions in excess of 5,000 square feet, where flyers, advertisements, or telephone contacts with local realtors are used, similar notification shall be given to the ACHP in order for them to advise GSA of any buildings in the delineated area whose placement on the National Register or eligibility list is worthy of consideration but which have not yet completed the formal review process to be qualified for the Register. The ACHP will provide GSA with a brief synopsis of buildings in this last category describing their qualifications for consideration.

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c. During the physical canvass portion of the market survey, the specialist will inspect those available properties identifed by the ACHP and those on the list maintained by the Regional Operational Planning Staff, as well as all other properties identified through the normal procedures.

d. Prior to the issuance of a solicitation of competitive offers, preference will be given to offers of space in buildings:

(1) Listed in the National Register of Historic Places;

(2) Located in a historic district which is listed in the National Register and

(a) Such building was specifically cited in the nomination of the district as being significant or contributing to the character of the district; or

(b) Such building is certified by the Secretary of the Interior as being of historic significance to the district;

(3) Determined to be formally listed as eligible for inclusion in the National Register of Historic Buildings.

2. A building which has been nominated by the State Historic Preservation Officer through submittal of Form 10-300 to the National Park Service will be considered as qualifying under this latter category. Nominations received from the various States are, in the vast majority of situations, accepted by the National Park Service for inclusion in the National Register. A copy of the nomination form signed by the State Officer, will be sufficient documentation in the lease file for justifying preferential consideration in these instances. Properties identified by the Advisory Council on Historic Preservation or State Historic Office as significant but not meeting the criteria above, will not be granted benefit of any preference procedure.

3. For those buildings on or formally listed as eligible for the National Register, including buildings in Historic Districts which are historically significant and contribute to the character of the District, offers will be solicited, negotiations initiated and concluded, and an award made without the necessity of soliciting further competitive offers, when the lowest offer as to price meets the following criteria.

a. Building complies with minimum firesafety standards.

b. Space will be accessible to the physically handicapped.

c. Offeror will perform initial alterations as required.

d. Located in delineated geographic area.

e. Lessor to conform with applicable codes and ordinances.

f. Space meets requesting agency mission requirements.

g. Term of the lease is consistent with Government requirements.

h. Gross annual rental is not in excess of the appraised fair annual rental value and the net annual rental does not exceed 15% of the appraised fair market value as determined by comparison to the current rate for similar space in the community.

4. The Public Buildings Cooperative Use Act directs the Administrator of General Services to "acquire space for Federal offices in buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives." The preference procedures reflect GSA's desire to directly participate in the preservation of this aspect of our nation's heritage. The 8-point criteria explicitly define our interpretation of "feasible and prudent". Quite simply, if a building meets the criteria, then under the authority of the Act, its utilization by the Goverment is feasible and prudent.

5. Offers for space in significant buildings which do not meet the 8-point minimum requirements shall not be accepted. They are considered imprudent and/or infeasible and the files shall be documented to cite the basis for this determination.

6. Competitive offers. In the event no offer for a building as described above is accepted, the leasing action shall be continued and Solicitations for Offers issued to all other potential suppliers identified during the market survey, including offerors of significant buildings who request a further opportunity to compete. All offers will be evaluated in the normal manner with no preference being given to offers of historically significant buildings.

General Services Administration — Buildings Service — Washington, DC 20405

Date : JAN 5 1982

Reply to Attn of : Office of Space Management - PR

Subject: Historic Preservation Preference Procedures

To : All Regional Administrators, GSA

This memorandum transmits a revision in leasing procedures with regard to the preferential consideration given to offers of historic properties under the Public Buildings Cooperative Use Act of 1976.

The issuance of solicitations for offers will no longer be initially restricted to owners of historic properties. Solicitations for offers which clearly outline the Government's preference for space in historic buildings may be issued to the full marketplace. This procedure should save considerable time when the likelihood of receiving a responsive offer for an historic building is doubtful. Also, when time is of the essence, soliciting competitive offers from a full marketplace may reduce the length of the acquisition process.

For new lease actions in excess of 5,000 square feet, a copy of the newspaper advertisement or flyer should be sent to the Regional and State Historic Preservation Officers and the Advisory Council on Historic Preservation (ACHP). This modification process represents a change in policy established in our September 5, 1980, memorandum whereby only the ACHP was to be contacted.

The following award factor, entitled "Historic Preference" must be utilized when issuing solicitations to both historic and non-historic property owners:

"Preference will be given to offers of space in buildings on, or formally listed as eligible for inclusion in the National Register of Historic Places and to historically significant buildings in historic districts listed in the National Register.

Such preference will be extended to historic buildings and will result in award only if the following criteria are met:

1. The building complies with minimum firesafety standards;
2. The space will be accessible to the physically handicapped;
3. The offeror will perform initial alterations as required;
4. The building is located in the delineated geographic area;
5. The lessor will conform with applicable codes and ordinances;
6. The space will meet agency mission requirements;
7. The term of the lease is consistent with Government requirements; and
8. The rental is not in excess of the appraised fair rental value.

If more than one offer of an historic building is received meeting the 8-point criteria described above, the other award factors specified in this solicitation shall apply."

This paragraph is available in the automated solicitation for offers as indicated on the enclosed SFO worksheet. Please ensure that all personnel involved with solicitations for offers receive this updated worksheet.

This change in procedure in no way signifies a deemphasis of the historic program in the Public Buildings Service. It is an attempt to reduce the timeframes of our lease acquisitions. However, if the implementation of this policy in a particular case represents poor business judgment, please forward the facts of the case and your recommendation for completion of the action to this office for approval prior to award.

John F. Galvin for

RICHARD O. HASSE
Commissioner

Enclosure

cc: All Assistant Regional Administrators, PBS
Assistant Regional Administrator for Real Property, PBS - 3P
All Regional Directors, SMD
Assistant Regional Administrator for Contracts, PBS - 3V
Associate Administrator for Operations - AR

Services Administration Buildings Service Washington, DC 20405

Date : FEB 1 1982

Reply to Attn of : Office of Space Management - PR

Subject: Succeeding Lease and Historic Preference Policy

To : All Regional Administrators, GSA

This memorandum will supplement the succeeding lease policy established in the Administrator's memorandum of February 9, 1981, to address procedures relative to acquisitions of space in historic buildings.

The February 9 memorandum outlined a five-point plan to be used by the Contracting Officer in determining if the Government's best interests would be served by negotiating a succeeding lease:

1. The occupant agency has a continuing need for the space and proposes no significant change in the amount of space required;

2. The agency is satisfied with the space and the agency proposes no substantial alterations;

3. Documented market data supports the fact that the negotiated rental for the proposed succeeding lease is fair and reasonable;

4. A documented analysis of the market survey shows that the existing lessor's offer is in the best interest of the Government, considering prices of available properties and relocation costs (including estimated moving costs and the estimated cost of alterations beyond those of the lease), or that no other space meeting minimum Government requirements is available; and

5. A succeeding lease meeting all legal requirements can be negotiated.

If each of the criteria above is met and the market survey indicates that an offer for space in an historic building, meeting minimum Government requirements, could not be obtained at a price more advantageous than that of the existing lessor's, the acquisition of space in an historic property should not be pursued.

If the Contracting Officer determines a relocation is necessary, solicitations may be issued in the full marketplace to owners of both historic and contemporary buildings, as outlined in our January 5, 1982, memorandum or negotiations on a noncompetitive basis may be conducted with the lessor of a suitable historic property and justified under the procedures established by this agency to implement the Public Buildings Cooperative Use Act of 1976.

Richard O. Haase

RICHARD O. HAASE
Commissioner

cc: All Assistant Regional Administrators, PBS
All Regional Directors, SMD
Assistant Regional Administrator for Real Property, PBS - 3P
Associate Administrator for Operations - AR

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

DATE: FEB 2 6 1978

Public Buildings Service
Washington, DC 20405

REPLY TO ATTN OF: Leasing Division - PRL

SUBJECT: Outleasing Procedure

All Regional Directors, SMD - PR

The procedures governing the long-term outlease of multi-use space have been finalized, (see attached) and should be incorporated in the September 1977 publication "Public Buildings Cooperative Use Act of 1976."

In preparing the outlease form you should incorporate the standard lease provisions in Exhibit C, and the applicable lease clauses and rules and regulations contained in Exhibits D and E, respectively. Other clauses which may be necessary on a case-by-case basis should be reviewed and approved by your Regional Counsel.

Discretion needs to be exercised in determining whether the rules and regulations should be modified for particular tenants. The regulation pertaining to cooking, for example, must of course be waived for restaurants. The regulation on the sale of alcohol should not apply to restaurants, wine and cheese shops, or other establishments which are not primarily engaged in the business of selling alcohol.

We believe the outlease procedures developed thus far will provide a good framework for implementing your multi-use program. As we gain experience in this area, the procedures will no doubt be expanded. In approximately 90 days, we will issue these procedures in handbook form.

Loy M. Shipp, Jr.

LOY M. SHIPP, JR.
Assistant Commissioner
for Space Planning
and Management

Enclosure

cc: All Regional Commissioners, PBS

IMPLEMENTATION PROCEDURES FOR LONG TERM OUTLEASING OF MULTI-USE SPACE

GENERAL

1. Scope. This section prescribes guidelines and procedures for the long term outlease of Federally-owned space to firms engaged in commercial, cultural, recreational, or educational activities.

2. Authority. The authority to enter into long term leases with non-Federal activities for space in Federal Buildings is set forth in Section 210(a), paragraphs 16, 17, 18, and 19 of the Federal Property and Administrative Services Act of 1949, as amended by the Public Buildings Cooperative Use Act of 1976 (P.L. 94-451).

3. General Guides.

a. Range of Uses. The range of uses will be limited to those which, because of their need for visability and accessibility, require a location on a major pedestrian access level.

b. Highest and Best Uses. The determination of use categories for each block of space to be outleased will be guided by the principal of highest and best use. Generally, the highest and best use will be that use which would most likely generate the greatest net return.

c. Non-Profit Uses. The Regional Planning and Assignment and Utilization Branches will work jointly in identifying potential non-profit uses. The Space Management Division will decide on the acceptability of recommended non-profit uses, giving due consideration to their impact on the commercial viability of the total project, as determined by the Acquisition Branch. The Assignment and Utilization Branch will screen proposed non-profit uses with potential agency sponsors such as the Department of Health, Education, and Welfare, or the Department of Interior. Agency(ies) agreeing to serve as a sponsor will be required to reimburse to GSA the prevailing Standard Level User Charge, or pro rata share thereof.

d. Method of Lease Acquisition. Leases will be entered into through the process of negotiation as authorized by 40 U.S.C. 490(a)(16).

e. Competition. Competition shall be obtained to the extent practicable and economic.

f. Rental Charge.

(1) Profit-Making Uses. The rental charge for profit-making uses will comprise a base rent, exclusive of services and utilities, plus a specified percentage of gross sales. The percentage clause will not, however, be used for Financial Institutions (see Exhibit B) or other firms whose gross revenue cannot be readily determined. The base rental and percentage rates will be based on prevailing rates for comparable space devoted to a similar purpose. (See Exhibit A for % guidelines).

(2) Non-Profit Uses. The rental shall be equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose.

(3) Fair Annual Rental. The rental charge for both profit and non-profit activities should be commensurate with the fair annual rental, as estimated by a current appraisal. Whenever it is found to be in the best interest of the Government to accept less than the fair annual rental an explanatory statement should be included in the file.

g. Term. Outleases may be executed for periods not in excess of 20 years, however, outleases with a firm term period in excess of 10 years must be approved by the Central Office.

h. Alterations. The multi-use space will, as a norm, be offered on an "as is" basis.

OUTLEASE PROCEDURE

4. Responsibility. The Regional Space Management Division will be fully responsible for performing the outlease procedure.

5. Advertising.

a. Purpose. To stimulate and identify demand for multi-use space on the part of commercial, recreational, cultural, and educational activities.

b. Mandatory Advertising. Space intended for profit-making uses must be advertised in local newspapers within a short period prior to initial and subsequent requests for offers. The advertisements will announce the availability of space and request listings on all or part of the space to be outleased.

c. Advertising Approaches.

(1) General Advertising. Display ads, for lease signs, news stories, and other advertising tools aimed at the market in general, will be the best approach for maximizing publicity for the project.

(2) Direct Advertising. When marketing conditions are such that a general advertising program has either failed or will probably fail to generate suitable responses, direct advertising tools such as brochures and personal selling efforts should be targeted at specific tenants that are considered potentially desirable.

6. Develop Market Data.

a. Purpose. To gather information on prospective tenants and market conditions.

b. Listing Files. Prospective offerors will be requested to provide information on the nature of their activity, their experience and financial credentials, and their space requirements.

c. Appraisal. A GSA staff appraisal will be required to estimate the fair annual rental rate structure for the blocks of multi-use space to be leased.

d. Market Canvass. The local retail market will be canvassed to determine the types of activities in the immediate area, prevailing rental rates and lease terms, and the supply and demand conditions for retail space. Local merchants, brokers, building owners, etc., should be consulted as part of the market canvass.

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e. Financial Evaluation. The Regional Office of Administration shall be requested to determine the financial responsibility of prospective tenants that satisfy the selection criteria (see paragraph 7b).

7. Prepare a Tenant Mix Plan.

a. Purpose. The purpose of this function is to plan, prior to the initial request for offers, the composition and location of activities which would best achieve a commercially viable multi-use program that is responsive to the needs of the community. The tenant mix plan will allocate blocks of space among both non-profit and profit tenant classes. Each tenant classification will consist of a general tenant class, such as food service, clothing, etc., and a listing of specific uses engaged in the same basic activity. In determining the specific listings within each general tenant class, it is necessary that the classes represent comparable activities, otherwise competition between the classes will not be practicable. (See Exhibit B for a listing of tenant classifications).

b. Selection Criteria. The following criteria will be used to allocate and classify each block of space comprising the tenant mix plan.

(1) Consistency with Planning Data. The proposed uses must be consistent with the constraints developed by the regional Planning Branch in coordination with the Buildings Management Division, other PBS offices, agency occupants, community officials, etc. These constraints cover such areas as the needs of the community, agency missions, security requirements, building operations, the requirements of the Randolph Sheppard Act, and existing concessions contracts.

(2) Consistency with Market Demand. The tenant classes should reflect market demand to assure that each general class elicits at least one responsive offer.

(3) Impact on Other Tenants

(a) Prime Space. The tenants occupying the prime space should have a very positive effect on drawing other tenants. Those users engaged in an activity that appeals to a broad segment of the public in terms of social, economic, and demographic characteristics, will generally be the most compatible with other tenants.

(b) Non-Prime Space. The tenants occupying non-prime space should broaden the range of activities and complement rather than directly compete with other tenants.

(4) Potential Rental Income. Consideration must be given to the quantity and certainty of the expected rental income.

(5) Impact on Space Plan. The location, configuration, amount of space, alteration, parking, and other tenant space requirements, must be compatible with the overall space plan for the multi-use area.

(6) Consistency with Rules and Regulations. The proposed use must be consistent with the rules and regulations governing the conduct of business on the premises (see Exhibit E).

(7) Community Benefit. The proposed use should have a positive effect on stimulating public use of the facility. Activities that operate after hours and during weekends and are not dependent on patronage by Federal employees, will generally have the most positive impact on injecting life into the immediate community.

8. Preparing the Solicitation.

a. Responsibilities. Specific space requirements and lease terms will be developed in SMD on a case-by-case basis in coordination with the Buildings Management Division, for building services and utilities; the Assignment and Utilization Branch, for design standards governing tenant improvements; and the Acquisition Branch, for lease terms.

b. Space Characteristics.

(1) Description of Space Offered

(a) Location

(b) Amount of Occupiable Area

(c) Condition

(d) Definition of Proposed Use

(e) Design Criteria Governing Tenant Alterations

(2) SFO Terms - (Exhibits C & D contain a set of general lease provisions and standard clauses)

(a) Possession Date

(b) Firm Term

(c) Renewal Options

(d) Termination Rights

(e) Offer-Acceptance Period

c. Building Services. GSA shall specify minimum standards or levels of service to be maintained within specific categories (cleaning, mechanical, operation and maintenance, etc.). In addition, GSA shall determine, based on the best interests of the Government, which services will be provided by GSA or the occupant. The Lessee will reimburse GSA for all building services provided by GSA based upon the actual cost to GSA.

(1) Provided Exclusively by GSA.

(a) Cleaning - Building Exterior

(b) Grounds and Roads Maintenance and Repair

(c) Elevator Operations

(d) Operation and Maintenance of Building Electrical System

(e) Operation and Maintenance of Building Heating, A/C and Ventilation Systems

(f) Operation and Maintenance of Building Plumbing/ Sewerage Systems

(g) Elevator Maintenance

(h) Escalator Maintenance

(i) Fire Protection System Maintenance for the Building

(j) Structural Maintenance and Repairs

(2) May be Provided by the Occupant or GSA

(a) Cleaning Building Interior

(b) Trash Separation and Removal

(c) Insect and Rodent Control

(d) HVAC - when occupant requirement exceeds building capability, and additional equipment is required, then the lessee will be required to provide the required HVAC. All cost for the installation, maintenance, repairs, and operating costs including utilities for such equipment, will be borne by the lessee.

(e) Utilities and Services

(1) Where the utilities and services are readily available from the local utility companies, the lessee will be required to obtain metered services from those companies and be solely responsible to them for the installation of the services and meters, and the payment of the bills.

(2) Where GSA has determined that the utilities and services cannot be obtained as outlined in paragraph (1) above, then they shall be furnished from existing Government sources. However, the lessee will be required to bear the cost of the installation of individual meters to register the amount of utilities and services used. The lessee will then reimburse the Government for the utilities and services used.

(3) Where GSA has determined that the utilities and services cannot be obtained as outlined in paragraphs (1) and (2) above, the utilities and/or services will be furnished by the Government, and the lessee will reimburse the Government for the costs of services.

d. Miscellaneous Provisions.

(1) Award Factors

(a) Price

(b) Financial Rating

(c) Management and Operating Experience

(2) Procedure for Determining and Certifying Amount of Percentage Rental Income

(3) Dispute Provisions

(4) Default Provisions

(5) Occupiable Space Definition

9. Requesting Offers.

a. Selecting Offerors. Solicitations will only be issued to financially qualified activities which are or will be engaged in one of the uses defined in the tenant mix plan.

b. Competition. Within each general tenant class defined in the tenant mix plan, a concerted effort will be made to obtain competition between the specific uses comprising the tenant class. Where market conditions are such that competition between qualified offerors is not practicable within a given tenant class, only one offer will be requested.

c. Timing. Offers should not be requested from profit or non-profit activities until sufficient market data has been generated to develop a viable tenant mix plan. The number of blocks offered initially will depend on market demand. In the absence of a strong demand for space, a strategy of acquiring tenants gradually may be preferable due to the positive effect that initial tenants will have on the marketability of the unoccupied space.

10. Negotiations. Negotiations will be conducted with all parties to assure responsive offers are obtained at a favorable rental.

11. Evaluating Offers. Offers will be evaluated in terms of the stated award factors. Once an offer is accepted for a specific use, other offers will not be considered for that use.

LEASE ADMINISTRATION

12. Responsibilities.

a. Contracting Officer. The contracting officer's responsibilities include:

(1) Interpreting and enforcing the lease agreement.

(2) Effecting lease renewals, extensions, and terminations.

(3) Negotiating and executing lease amendments.

b. Buildings Manager. The Building Manager's responsibilities include:

(1) Ensuring that the Government's lease obligations with respect to building operations, services and maintenance are fully discharged.

(2) Taking initial corrective action whenever tenant activities deviate from the rules and regulations prescribed for the building.

(3) Determining the lessee's monthly bill for services and utilities provided by the Government.

c. Assignment and Utilization Branch. The Regional Assignment and Utilization Branch will be responsible for determining whether a tenant's alteration plan complies with the design criteria controlling such alterations. The Assignment and Utilization Branch will request the concurrence, where necessary, of the Repair and Alterations Staff with regard to the plans compatibility with the design and operation of the building.

d. Office of Administration. The Regional Office of Administration will be responsible for:

(1) Billing and collection activities.

(2) Supervising the collection of percentage rent, including the performance of audits if necessary to assure full payments in accordance with lease terms.

(3) The determination of the amount and types of insurance to be maintained by the lessee to protect the interests of the Government.

13. Extending Occupancy Rights.

a. Assignment and Utilization Clearance. No action shall be initiated by the Government to extend the occupancy rights either by renewal action, lease amendment, or new lease, until the Assignment and Utilization Branch certifies that the space can be made available for non-Federal use during the proposed term.

b. Continued Occupancy. The decision on whether to negotiate solely with the existing lessee for continued occupancy will be based on a thorough market and rental analysis which includes a market canvass, an appraisal, an evaluation of the lessee's compliance with lease terms, and an evaluation of past and expected rental income.

EXHIBIT A

REPRESENTATIVE PERCENTAGE LEASE TABLE

Washington, D.C.

This table of percentages is an average of reported information and is to be used as a guide only and is not to be construed as a recommendation. Percentages vary with changing economic conditions and also with certain tenants and different locations.

Type of Business		*Type of Business*	
Art Galleries	6–8	Candy	8–10
Antique Stores	6	Delicatessen	4–6
Auto Accessories	4–6	Department Stores	1½–2½
Bakeries	5–6	Department Stores (Jr.)	2–3
Barber Shops	8–10	Drug Stores (Chain)	2½–3½
Beauty Shops	6–8	Drug Stores (Individual)	4–6
Book Stores	5–6	Dry Cleaning and Laundry	8
Camera	4–6	Florists	8
Furniture	3–5	Radios, TV & Appliances (Discount Stores)	3–5
Gas Stations	1¼–1½c per gal.	Record	5–7
Gift & Greeting Cards	6	Restaurants	5–7
Hardware	3–5	Restaurants with Liquor	6–7
Infant's and Children's Wear	3–5	Restaurants, carry out	6–8
Jewelry	6–8	Shoes	5–6
Liquor Stores, D.C.	4–5	Sporting Goods	4–6
Liquor Stores, Md.	4–6	Supermarkets (Chain)	1½–1½
Men's Furnishings (Local)	5–6	Toy Stores	4–7
Motion Pictures	10–12½	Women's Wear (Chain)	4–6
Optometrist	8–10	Women's Wear (Local)	5–6
Parking Garage	60	Variety Stores (Chain)	3–4
Photographers	10–12		

Prepared by the Commercial Leasing Committee of the Washington Board of Realtors

Source: 1977 Diary Directory - Washington Board of Realtors

EXHIBIT B

APPENDIX B

TENANT CLASSIFICATIONS

Categories from Dollars and Cents of Shopping Centers: 1978; code numbers from Dollars and Cents: 1978 and from the Standard Industrial Classification (SIC) Manual

TENANT CATEGORY	S&C CODE	SIC CODE
GENERAL MERCHANDISE		
Department store	A-01	5311
Junior department store	A-02	5311
Variety store	A-03	5331
Discount department store	A-04	5311
Showroom catalog store	A-05	5399
FOOD		
Supermarket	B-01	5411
Convenience market	B-02	5411
Meat, poultry, fish	B-03	5421
Specialty food	B-04	5499
Delicatessen	B-05	5411
Bakery	B-06	5461
Candy, nuts	B-07	5441
Dairy products	B-08	5451
Health food	B-09	5499
FOOD SERVICE		
Restaurant without liquor	C-01	5812
Restaurant with liquor	C-02	5812
Cafeteria	C-03	5812
Fast-food/carryout	C-04	5812
Cocktail lounge	C-05	5813
Doughnut shop	C-06	5812
Ice cream parlor	C-07	5812
Yogurt store	C-08	5812
Pretzel shop	C-09	5812
CLOTHING		
"ies' specialty	D-01	5621
's' ready-to-wear	D-02	5621
.i shop	D-03	5621
.ersity	D-04	5621
Hosiery	D-05	5631
Millinery	D-06	5631
Children's wear	D-07	5641
Menswear	D-08	5611
Family wear	D-09	5651
Furs	D-10	5furs
Unisex/jean shop	D-11	5699
Leather shop	D-12	5699
SHOES		
Family shoe	E-01	5661
Ladies' shoe	E-02	5661
Man's and boys' shoe	E-03	5661
Children's shoe	E-04	5661
HOME FURNISHINGS		
Furniture	F-01	5712
Lamps	F-02	5719
Floor coverings	F-03	5713
Curtains and drapes	F-04	5714
Upholstering	F-05	5714
China and glassware	F-06	5719
HOME APPLIANCES/MUSIC		
Appliances	C-01	5722
Radio, TV, hi-fi	C-02	5732
Sewing machines	C-03	5722
Records and tapes	C-04	5733
Musical instruments	C-05	5733
BUILDING MATERIALS/GARDEN		
Curtains	H-01	5261
Paint and wallpaper	H-02	5231
Hardware	H-03	5251
Home improvements	H-04	5211
AUTOMOTIVE SUPPLIES/SERVICE STATION		
Automotive (TBA)	K-01	5531
Auto dealer	K-02	5511
Service station	K-03	5541
...ash	K-04	7542
shop	K-05	5571
.../SPECIAL INTEREST		
...cific 3 goods	M-01	5511
Hobby	M-02	5945

TENANT CATEGORY	S&C CODE	SIC CODE
Art gallery	M-03	5999
Cameras	M-04	5946
Toys	M-05	5945
Bike shop	M-06	5941
Arts and crafts	M-07	5999
GIFTS/SPECIALTY		
Imports	N-01	5999
Luggage and leather	N-02	5948
Cards and gifts	N-03	5947
Candles	N-04	5999
Books and stationery	N-05	5942/5
JEWELRY AND COSMETICS		
Credit jewelry	P-01	5944
Costume jewelry	P-02	5999
Jewelry	P-03	5944
Cosmetics	P-04	5999
LIQUOR		
Liquor and wine	Q-01	5921
Wine and cheese	Q-02	5921 5431
DRUGS		
Super-drug (over 10,000 sq. ft.)	R-01	5912
Drug	R-02	5912
OTHER RETAIL		
Yard goods	S-01	5949
Tobacco	S-02	5993
Pet shop	S-03	5999
Flowers	S-04	5992
Plant store	S-05	5992
Other retail	S-09	5999
PERSONAL SERVICES		
Beauty	T-01	7231
Barber	T-02	7241
Shoe repair	T-03	7251
Cleaner and dyer	T-04	7212
Laundry	T-05	7211
Figure salon	T-06	7991
Photographer	T-07	7221
Formal wear/rental	T-08	7299
Interior decorator	T-09	7389
Travel agent	T-10	4721
Key shop	T-11	7699
RECREATION/COMMUNITY		
Post office	W-01	7391
Movie studios and dance	W-02	7911 7829
Bowling alley	W-03	7933
Cinemas	W-04	7832
Ice/roller skating	W-05	7999
Community hall	W-06	—
Arcade, amusement	W-07	7993
Day care and nursery	W-08	8351
FINANCIAL		
Bank	X-01	6021
Savings and Loan	X-02	612
Finance company	X-03	6141
Small loans	X-04	6141
Brokerage	X-05	6211
Insurance	X-06	63
Real estate	X-07	6531
OFFICE (other than financial)		
Optometrist	Y-01	8042
Medical and dental	Y-02	8011 8021 8031
Legal	Y-03	8111
Accounting	Y-04	8721
Architect	Y-05	8711
Employment agency	Y-06	7361
Other office	Y-07	—
OTHER		
Vacant space	Z-01	—
Miscellaneous income	Z-02	—
Warehouse	Z-03	4225

EXHIBIT C

GENERAL PROVISIONS

1. SUBLETTING THE PREMISES.

Lessee shall not have the right to assign, sublet, or in any manner transfer this lease or any interest arising under this lease, without the prior written consent of the Government.

2. MAINTENANCE OF PREMISES.

The Government shall maintain the demised premises, including the building and any and all equipment, fixtures, and appurtenances, furnished by the Government under this lease in good repair and tenantable condition, except in case of damage arising from the act or the negligence of the Lessee, its agents or employees. For the purpose of so maintaining said premises and property, the Government, at reasonable times, will enter and inspect the same and make any necessary repairs thereto.

3. DAMAGE BY FIRE OR OTHER CASUALTY.

If the said premises be destroyed by fire or other casualty this lease shall immediately terminate. In case of partial destruction or damage, so as to render the premises untenantable, as determined by the Government, the Government may terminate the lease by giving written notice within fifteen (15) days thereafter; if so terminated no rent shall accrue to the Government after such partial destruction or damage; and if not so terminated the rent shall be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage.

4. ALTERATIONS.

Lessee shall not make any additions, improvements, or alterations to the leased premises without the prior written consent of the Government.

5. CONDITION REPORT.

A joint physical survey and inspection report of the demised premises shall be made as of the effective date of this lease, reflecting the then present condition, and will be signed on behalf of the parties hereto.

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6. COVENANT AGAINST CONTINGENT FEES.

The Lessor warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this lease without liability or in its discretion to deduct from the rental price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee. (Licensed real estate agents or brokers having listings on property for rent, in accordance with general business practice, and who have not obtained such licenses for the sole purpose of effecting this lease, may be considered as bona fide employees or agencies within the exception contained in this clause.)

7. OFFICIALS NOT TO BENEFIT.

No member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this lease contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this lease contract if made with a corporation for its general benefit.

8. EQUAL OPPORTUNITY CLAUSE.

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60).)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

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(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

9. EXAMINATION OF RECORDS.

(NOTE.--This provision is applicable if this lease was negotiated without advertising.)

(a) The Lessee agrees that the Comptroller General of the United States, The Administrator of General Services, or any of their duly authorized representatives shall, until the expiration of 3 years after final payment under this lease, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Lessee involving transactions related to this lease.

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(b) The Lessee further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States, the Administrator of General Services, or their representatives shall, until the expiration of 3 years after final payment under this lease with the Government, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract.

10. APPLICABLE CODES AND ORDINANCES.

The lessee shall comply with all codes and ordinances applicable to the occupation, use, and operation of the premises, and at his own expense, obtain all necessary permits and related items.

11. INSPECTION.

The Government shall have the right to inspect the leased premises at all reasonable times, and post signs when necessary to advertise the premises for rent.

12. INSURANCE.

Lessee shall procure and maintain at his expense during the term of the lease and any extension thereof, such insurance as herein stipulated. Insurance shall be written by companies acceptable to, and policies shall include such terms and provisions as may be required by General Services Administration. The general liability policy shall name "The United States of America, acting by and through General Services Administration," as an additional insured with respect to operations performed under this contract.

Each policy shall include the following provision:

It is a condition of this policy that the Company shall furnish written notice to General Services Administration, at the address of the issuing office, thirty (30) days in advance of the effective date of any reduction in or cancellation of this policy.

Insurance shall be effective and evidence of acceptable insurance furnished prior to commencing operations under this lease. Lessee shall furnish General Services Administration, at the address of the issuing office, as evidence of required insurance, certified true copies of liability policies and manually countersigned endorsements of any changes thereto. Renewal policies shall be furnished not less than five (5) days prior to the expiration of current policies.

Lessee also agrees to maintain Workman's Compensation and Employer's Liability Insurance for the protection of employees.

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13. TAXES.

Lessee shall pay all taxes levied or assessed upon the possession, use, or occupancy of the premises.

14. RESTORATION.

Lessee shall use reasonable care in the occupation, use, and operation of the property and shall upon the expiration or termination of this lease, vacate the premises, remove property which is not the property of the Government, and return the premises in as good condition as that existing as of the effective date of the lease, ordinary wear and tear expected.

15. DISPUTES.

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Administrator of General Services. The decision of the Administrator or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: Provided, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

16. SAVE HARMLESS AND INDEMNITY AGREEMENT.

The Lessee shall save and keep harmless and indemnify the Government against any and all liability, claims, and costs of whatsoever kind and nature for injury to or death of any person or persons and for loss or damage to any property (Government or otherwise) occurring in connection with this contract, resulting in whole or in part from the negligent acts, fault or omissions of the Lessee, his agents, or employees.

17. DEFAULT

The Government shall have the right to terminate the lease, and re-enter and take possession of the premises and property in the event of:

(a) Insolvency, bankruptcy, receivership, assignment to or appointment of a trustee for the benefit of creditors, not cured within 60 days, by giving a five-day notice in writing; or

(b) Violations of the terms, covenants, or conditions of the contract of lease not cured within 10 days from notice of violation by the Government.

EXHIBIT D

STANDARD CLAUSES

CONVEY LEASEHOLD

THIS LEASE, made and entered into this date by and between UNITED STATES OF AMERICA, hereinafter called the Government, and

hereinafter called the Lessee

whose address is

and whose interest in the property hereinafter described is that of

WITNESSETH: The parties hereto for the consideration hereinafter mentioned, covenant and agree as follows:

DESCRIPTION OF PREMISES

The Government hereby leases to the Lessee the following described premises:

USE OF PREMISES

Lessee shall continuously use the entire premises for conducting exclusively the business of

Lessee shall be open for business (daily, Saturdays, Sundays) from _____a.m. to _____p.m.

TERM OF LEASE

TO HAVE AND TO HOLD the said premises with their appurtenances for the term beginning on _____ through _____, subject to termination and renewal rights as may be hereinafter set forth.

MINIMUM RENT PAYMENT

The Lessor shall pay the Government a minimum annual rent of $_____ at the rate of $_____ per _____ in advance. Rent for a lesser period shall be prorated. Rent checks shall be made payable to:

PERCENTAGE RENT PAYMENT

(a) The Lessee shall pay on or before the 15th day following the end of the first three months, and after the end of each successive three months of occupancy, the amount, if any by which _____ percent of gross sales for the immediately preceding quarter exceeds the minimum rent for that period.

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(b) The term gross sales shall be the entire amount of (1) the sales price, including credit sales, of merchandise and services and other business conducted in or from the premises, (2) orders taken in or from the premises, although said orders may be filled elsewhere; (3) amounts attributable to merchandise delivered or services performed upon the premises, though contracted for elsewhere, (4) all deposits not refunded to purchasers, (5) amounts attributable to uncollected or uncollectible amounts, (6) all interest or other carrying charges or any charge collected by lease.

(c) There shall be excluded from gross sales any sum collected and paid out for any sales or excise tax based upon all taxable sales in this definition.

REPORTING GROSS SALES

(a) All sales are to be recorded on cash registers or other sales-recording devices which make a permanent written record of each sale.

(b) Lessee shall submit to the Government on or before the 15th day following the end of each three months of Government occupancy, a written statement signed by lessee, and certified by the Lessee to be true and correct, showing in reasonable detail the amount of gross sales for each month during the preceding three months.

(c) Lessee shall submit to the Government, on or before the 30th day following the end of each lease year, a written statement signed by lessee and certified by an independent certified public accountant, showing in reasonable detail the amount of gross receipts during the preceding lease year. Lessee further agrees to retain and preserve these records for at least two years after expiration of each lease year.

(d) If the Government is not satisfied with the annual statement of gross sales the Government or its designee, shall have the right to audit the lessee's sales records in connection with the premises. If such audit shall disclose a deficiency for unpaid rent to the extent of 3% or more of the paid rent for such period the lessee shall immediately pay to the Government the cost of said audit in addition to the deficiency.

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TERMINATION — The Government may terminate this lease at any time by giving at least _____days notice in writing to the Lessee and no rental shall be payable after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.

RENEWAL — This lease may be renewed at the option of the Lessee, for the following terms and at the following rentals:

provided notice be given in writing to the Government at least _____ days before the end of the original lease term or any renewal term; all other terms and conditions of this lease shall remain the same during any renewal term. Said notice shall be computed commencing with the day after the date of mailing.

GOVERNMENT OBLIGATIONS — The Government shall furnish to the Lessee as part of the rental consideration, the following:

ATTACHMENTS — The following are attached and made a part hereof:

CHANGES AND MODIFICATIONS — The following changes were made in this lease prior to its execution:

SECURITY — The Government hereby acknowledges receipt of the deposit of the sum of $_____, which is equivalent to one month's minimum rent, as security for the full performance by the lessee of each and every provision of this lease. Provided lessee shall fully comply with all terms of this lease, the said deposit shall be returned after the expiration of the lease.

EXECUTION — IN WITNESS WHEREOF, the parties hereto have hereunto subscirbed their names as of the date first above written.

LESSEE

BY_____ _____
(Signature) (Signature)

IN PRESENCE OF:

_____ _____
(Signature) (Signature)

UNITED STATES OF AMERICA

BY_____ _____
(Signature) (Official Title)

EXHIBIT E

RULES AND REGULATIONS

(1) No part of the whole of the sidewalks, plaza areas, entrances, passages, court, elevators, vestibules, stairways, corridors, or halls of the Building shall be obstructed or encumbered.

(2) No awnings or other projections shall be attached to the walls of the Building or Premises without the prior written consent of the Government. No drapes, blinds, shades, or screens shall be attached to, hung in, or used in connection with any window or door of the Premises or Building without the prior written consent of the Government.

(3) No speakers, sound amplifiers, or other sound producing devices shall be installed on the roof or exterior walls of the Building or Premises or in the common areas, or shall be audible beyond the confines of the Premises without the prior written consent of the Government.

(4) No sign, advertisement, notice, or other lettering shall be exhibited, inscribed, painted or affixed on any part of the Premises, Building or common areas without the prior written consent of the Government.

(5) The Lessee shall make no marks, nor drill into, nor cut, nor string wires from, nor attach radio or television antennae to, any part of the Building, Premises or common areas, without the prior written consent of the Government.

(6) Lessee may install additional locks and bolts on the Premises only with the Government's prior written consent.

(7) At no time shall the Premises be used for lodging; sleeping; storage; manufacture or sale of liquor, beer, wine, narcotics, or drugs; an employment bureau; or any immoral, offensive or disruptive purpose or activity.

(8) Lessee shall warehouse, store, or stock on the Premises only such goods, wares and merchandise as Lessee reasonably intends to offer for sale, or which are necessary for the sale of Lessee's goods or services, from or upon the Premises. Lessee shall use for office, clerical, or other non-sales purposes only such space in the Premises as is from time to time reasonably required for Lessee's business in the Premises.

(9) No auction, fire, or bankruptcy or other similar sale may be conducted on or about the Premises unless the express written consent of the Government is obtained.

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PART 3. MULTIUSE ACTIVITIES

8. Procedure on multiuse. In implementing the multiuse provisions of the Public Buildings Cooperative Use Act of 1976, the Operational Planning Staff shall be responsible for the initial determination of how much and what type of multiuse space will be included in planned new construction of public buildings. Multiuse space should comprise not less than 5 percent, unless otherwise justified, nor exceed 15 percent of the total occupiable area of the building, and shall be limited to major pedestrian access levels, courtyards and rooftops of public buildings for persons, firms or organizations engaged in commercial, cultural, educational or recreational activities as defined below:

a. The term "commercial activities" includes, but is not limited to, the operation of restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

b. The term "cultural activities" includes, but is not limited to, film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not such activities are intended to make a profit.

c. The term "educational activities" includes, but is not limited to, operation of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

d. The term "recreational activities" includes, but is not limited to, the operation of gymnasiums and related facilities.

9. Community survey review. The feasibility for incorporating multiuse space into planned Federal buildings or existing buildings to be acquired, shall be initially considered when the community survey review is undertaken in conjunction with an FFP. The planning specialist should consult with local input on how multiuse space might complement or support local programs and goals, especially where ongoing development or redevelopment of a central business area is underway.

10. Federal Facilities Plan. When known or clearly identifiable uses of multi-use space can be established, recommendations should be made in the FFP on how the space allowance will be utilized. This would include identifying the user, and the type of space needed, and the estimated income to be derived.

11. Environmental impact. The environmental impact of facilities having multiuse activities will be analyzed following existing procedures for new construction. In the consultation with local authorities, care should be exercised not to lead those consulted to the conclusion that a multiuse proposal or a Federal building having multiuse facilities, as the case may be, will necessarily be developed. All proposals are subject to funding limitations for construction and subsequent changes, both in Government requirements and the local market, for the various activities planned for the building.

12. Historic preservation and multiuse activities. Multiuse activities will be provided in historically, architecturally, or culturally significant buildings when they are feasible in terms of cost, building design, and consistent with agency operations and community plans.

SEP 2 1981

Mr. Robert R. Garvey, Jr.
Executive Director
Advisory Council on Historic Preservation
1522 K Street, NW.
Washington, DC 20005

Dear Mr. Garvey:

On June 19, 1981, a meeting was held between the members of the staffs of the Advisory Council on Historic Preservation (ACHP) and the General Services Administration (GSA) where revised procedures regarding historically significant properties were developed. Based on the results of this meeting, we agreed with the Advisory Council regarding the following:

(1) GSA can directly contact State Historic Preservation Officers (SHPO's) in lieu of the Advisory Council, and will send a copy of the letter to the ACHP. The contact at the time of prospectus development will ask for an indication of the availability of historic buildings. At the site investigation stage of project development, the contact to the SHPO will request a detailed analysis of the available historic buildings, including a positive indication of the owners' willingness to sell.

(2) There is little reason to analyze historic buildings prior to prospectus submittal to OMB and the Public Works Committees of Congress. In practice, GSA does not have a chance to tie up a building for the two to three years needed for project approval and funding. If, in fact, a building could be tied up for that long a term, it would most probably be one that is basically unmarketable and, therefore, unattractive to any user.

(3) GSA will identify a need for a project and state that it will be met through construction, renovation of historic buildings, or a combination of the two. The detailed analysis would then occur in conjunction with the site investigation, usually following project authorization and funding. However, if our initial cursory analysis of buildings listed by the SHPO at the prospectus development stage indicates there is a building that would be particularly suitable for Federal use, the necessary steps should be taken to reserve it for the two to three years needed for project approval and funding, and we should target our strategy towards acquisition of that building.

(4) GSA lease flyers will be sent directly to the SHPO's with informational copies provided to the Advisory Council.

(5) In the case of prospectus-level leases, our regional representative will contact the SHPO after prospectus approval and proceed in accordance with our current procedures concerning lease acquisition of historic properties.

We believe that the above procedures will enable both the ACHP and GSA to more effectively meet their legislative mandates with respect to historically significant properties. In addition, these procedures shall supersede the Memorandum of Understanding Between the GSA and ACHP on Services to be Provided to GSA as required by the Public Buildings Cooperative Use Act of 1976, which was terminated on November 26, 1980. Unless we hear from you within the next 30 days, we will assume that the procedures are acceptable to the Advisory Council. We look forward to a continued mutually beneficial working relationship.

Very truly yours,

(Signed) John F. Galuardi

JOHN F. GALUARDI
Acting Commissioner

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PART 2. HISTORIC PRESERVATION

4. Policy.

a. The requirements of the Public Buildings Cooperative Use Act, Public Law 94-541; the National Historic Preservation Act, Public Law 89-665, as amended; the Presidential Memorandum of July 12, 1978, entitled Environmental Quality and Water Resources Management; the Advisory Council on Historic Preservation regulations in 36 CFR 800; and GSA Order 1022.2) Administrative Procedures for Historic Properties, established the laws and policies under which the General Services Administration is to participate in preserving our Nation's historic, architectural and cultural heritage.

b. It shall be the procedure of GSA to acquire and use space in suitable buildings of historical, architectural, or cultural significance, unless use of the space would not prove feasible and prudent compared with available alternatives.

5. Implementing procedures.

a. Whenever long-range planning for housing Federal agencies will entail the development of an FFP or RPM, and a community survey review will ensue, the planning specialist shall provide the GSA Regional Historic Preservation Officer with the estimated range of space requirements for the potential project, together with the scope of the project and the proposed delineated area, if known. The Regional Historic Preservation Officer in turn will submit this information to the State Historic Preservation Officer at least 60 calendar days prior to the planning specialist commencing an onsite field survey.

b. As part of the development of a FFP or RPM, the State Historic Preservation Officer shall be requested by the Regional Historic Preservation Officer to identify within 30 calendar days potential buildings within the proposed delineated area that may meet GSA's preliminary space requirements and scope of project, and that are of historical, architectural or cultural significance. This contact to the State Historic Preservation Officer is in lieu of that to the Advisory Council on Historic Preservation; however, a copy of the letter sent to the State Historic Preservation Officer will be sent to the Advisory Council on Historic Preservation.

c. In most prospectuses that propose construction, GSA will simply identify a need for a project and state that it will be met through construction, renovation of historic buildings, or a combination of the two. The actual decision as to whether a historic building will be utilized will then be made at the site investigation stage. However, if our initial cursory analysis of buildings, listed by the State Historic Preservation Officer at the FFP stage indicates there is a building that would be particularly suitable and available for Federal use, the necessary steps (see pars. d, e, and f below) should be taken to reserve it for the 2 to 3 years needed for project approval and funding, and we should target our strategy and prospectus findings towards acquisition of the building.

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PBS P 7000.

d. If an historic building is targeted at the FFP stage, GSA should determine:

(1) That the owner of the property is willing to sell or lease the building to the Government;

(2) The estimated sales price or annual rental (based on a 20-year lease term);

(3) The period or term that offer of sale or lease will remain open for acceptance;

(4) The availability of building plans (architectural, structural, electrical and mechanical); and

(5) Whether the lessor, if the building is leased, would be agreeable to meeting GSA standards for safety and handicapped requirements.

e. Prior to commencing an indepth evaluation of any building for potential targeting in a prospectus, the planning specialist, with assistance from acquisition specialist(s), shall contact the owners of the property to obtain the following:

(1) An option to purchase the property for a fixed price at current fair market value. The option period should be for a term of not less than that needed to obtain funding availability. No consideration shall be paid for the option;

(2) An offer to lease, in writing, providing the annual rental and a lease term of 20 years. The offer shall remain open for a minimum of 24 months; and

(3) A copy of the building plans.

f. Failure of the owner of the property to meet the requirement of e(1) or (2) shall be considered justification for rejecting the property.

6. Evaluation and analysis of significant buildings. Of those historically, architecturally or culturally significant properties where GSA has controlled the property by either an option to purchase or an offer to lease, an evaluation to determine the feasibility of using the building must then be made. All PBS regional divisions may be used to assist in the analysis, as appropriate. The evaluation of the building will proceed in the following manner:

a. Location. The location of the building shall be compatible with agency program and policy requirements, those of our client agencies, and those of GSA. Additionally, the location of Federal agencies, in particular, buildings of historical, architectural, or cultural significance, should be compatible with local plans and programs.

b. Functional requirements. Each building should meet the functional requirements of GSA in terms of structural integrity, live load capacity, etc. In addition, the building shall meet minimum agency requirements in terms of square footage, operational requirements, collocation requirements, if any, etc.

c. Alternatives. Two or more buildings may be considered for acquisition simultaneously for all or only a portion of the Government's requirements. Thus, an alternative involving historic properties does not have to be limited to just one building. The alternative may consist of a number of sub-alternatives or methods of satisfying the total requirement for space, i.e., a combination such as purchasing an historic property, repair and alteration of an existing Government-owned building, and leasing.

d. Cost analysis. The cost of purchasing and utilizing an historic property shall include the acquisition costs and the cost of repair and alterations, including provision for required health and firesafety features and handicapped facilities, etc., as determined by the Offices of Buildings Management and Design and Construction. In addition, the cost of the operation and maintenance, including energy consumption over the life of the building, shall also be considered. (See ch. 3-9i(1).)

e. Agreement on alterations. Approval of specific alterations necessary for the accommodation of Federal agencies and the public, e.g., necessary life and firesafety features, handicapped facilities, general purpose standards for lighting, partitioning, electrical work, etc., shall be obtained by Regional Historic Preservation Officer from the Advisory Council on Historic Preservation and the State Historic Preservation Officer prior to a regional recommendation that a building be acquired for Federal use.

7. Advisory Council on Historic Preservation review of undertaking. As early as possible and before a final decision concerning an undertaking is reached that would foreclose any use of alternatives recommended by the State Historic Preservation Officer the Chief, Operational Planning Staff, will provide the State Historic Preservation Officer and Advisory Council on Historic Preservation the opportunity to comment in accordance with the Advisory Council on Historic Preservation Regulations 36, CFR 800.4, Review Individual Undertakings.

QUESTION

2. I am informed that the cooperative agreement between GSA and the National Building Museum concerning use and occupancy of the Pension Building has still not been signed. Will you personally look into this and expedite negotiations? Why do you not pattern this agreement at least in part on those between the National Park Service and private foundations for operating certain national historic sites? Under those agreements, the foundations provide interpretive services at the site, and are allowed to sublease space they do not need. Would it not be proper to allow the Building Museum to assign space in the courtyard of the Pension Building and to collect fees for its use, so long as those fees are commensurate with those charged by other museums and are used to support the Museum's operations in the Pension Building?

ANSWER

I have delegated the responsibility for the negotiation of the cooperative agreement to the Regional Administrator of the National Capital Region, who will have to directly live with the terms of the agreement. Also, I have ordered my Counsel James (my Chief of Staff) and Mr. Lee Mosby (PBS to make every effort to see that the agreement is expedited!
The Region has been informed of the suggestion to pattern the agreement after the National Park Service agreements with private foundations. An Assistant Secretary of the Department of the Interior will be a cosigner of the agreement.

The collection and assignment of fees for the temporary use of the courtyard is now a subject under negotiation.

QUESTIONS FROM SENATOR SIMPSON

QUESTION

1. I understand that GSA is negotiating an agreement with the Board of Directors of the National Buildings Museum to turn the magnificent Pension Building over to them. Who are they? How are they funded and how solid is their base of support and financial position? How viable are they?

ANSWER

The National Building Museum is a successor organization to the Committee for a National Museum of the Building Arts, a nonprofit corporation organized in January 1978 under the laws of the District of Columbia. To the best of my knowledge they are funded through private donations except for a matching grant-in-aid from the Department of the Interior of up to $500,000 per year. The Museum is intending to look to the use of the courtyard of the Pension Building for fundraising purposes. This aspect is under negotiation in the cooperative agreement. Since the NBM is a relatively new organization, it is difficult to comment on their viability.

QUESTION

2. I am told that the draft agreement would:

   a. Give the Board priority use if not control of this building valued at over $40 million;

   b. Renovate it to the satisfaction of the museum at a cost to the Government of $24 million without any monetary contribution from the museum;

   c. Maintain the building at taxpayer expense of more than half million dollars annually while the museum pays for no maintenance.

   Is this essentially correct? What assurances are there in the agreement that the Government's interest will be protected?

ANSWER

a. The NBM would have priority use of the Pension Building. The control of the building is now a subject of negotiation.

b. P.L. 96-515 requires GSA to make the site of the Pension Building available to the NBM without charge and to renovate the building. No monetary contribution is required from the NBM.

c. P.L. 96-515 requires the cooperative agreement to:

"provide, subject to available appropriations, such maintenance, secruity, information, janitorial and other services as may be necessary to assume the preservation and operation of the site."

The cooperative agreement will define the standard services which will be available without charge to the NBM. Any additional services it is expected will be paid for by the NBM.

QUESTION

3. Is it correct that while the museum would receive the building free of charge, have the building renovated to its satisfaction, and pay no rent or maintenance, the museum is insisting that it should have exclusive right to lease the courtyard space out to private and nonprofit groups and keep all the revenues for itself?

Is it in the public interest to take a private organization allowing them to control who may use the building and charge for its use?

Is it correct that the museum has set up a fee schedule to charge profit-making groups $5,000 per use and nonprofit groups such as educational or recreational or charitable groups $3,000 per use? Is it true that under the agreement GSA would pay for cleanup after the museum rents out the courtyard for a private party?

ANSWER

The details of who will control the use of the building courtyard and how charges will be assessed and to whom they will be paid are now being negotiated.

The NBM has proposed language in which they would establish a schedule of fees for the temporary use of the courtyard. This is under negotiation.

GSA would provide a standard level of services beyond which, services would be paid for by NBM.

QUESTION

4. The National Visitors Center is an embarrassment to those who were involved in it. There are several reasons. One would surely be that it was a half baked idea, done too hastily and without appropriate research and planning. Money was thrown about and good money chased bad. Has this project been carefully worked out or could we have potentially another Visitors Center?

ANSWER

The use of the building as a National Building Museum was established by P.L. 96-515. Through the establishment of a carefully negotiated cooperative agreement, it is hoped to avoid a situation similar to the National Visitors Center.

QUESTIONS FROM SENATOR GORTON

GSA BICYCLE PARKING FACILITIES

QUESTION

1. WHAT PERCENTAGE OF THE BUILDINGS UNDER YOUR JURISDICTION NOW HAVE BICYCLE PARKING FACILITIES?

ANSWER

41 PERCENT OF THE BUILDINGS UNDER GSA JURISDICTION NOW HAVE BICYCLE PARKING FACILITIES.

QUESTION

2. WHAT WAS THE PERCENTAGE TWO YEARS AGO?

ANSWER

37 PERCENT OF THE BUILDINGS UNDER GSA JURISDICTION HAD BICYCLE PARKING FACILITIES TWO YEARS AGO.

GSA BICYCLE PARKING FACILITIES

QUESTION

3. WHAT PERCENTAGE OF THESE BUILDINGS CURRENTLY HAVE BICYCLE PARKING FACILITIES THAT ARE PROTECTED FROM THE WEATHER AND CAN EITHER BE SEEN AT ALL TIMES BY A BUILDING GUARD OR ARE OTHERWISE SAFE FROM THEFT OR DAMAGE?

ANSWER

A. 25 PERCENT OF THE BUILDINGS UNDER GSA JURISDICTION THAT HAVE BICYCLE PARKING FACILITIES ARE PROTECTED FROM THE WEATHER.

B. 35 PERCENT OF THE BUILDINGS UNDER GSA JURISDICTION THAT HAVE BICYCLE PARKING FACILITIES CAN BE SEEN AT ALL TIMES BY A BUILDING GUARD OR ARE OTHERWISE SAFE FROM THEFT OR DAMAGE.

QUESTION

4. WHAT ARE THE COSTS OF INSTALLING BICYCLE PARKING FACILITIES AT A PUBLIC BUILDING?

ANSWER

BICYCLE PARKING FACILITIES VARY FROM THE TRADITIONAL STEEL "PIPE RACK" OR BIKE PARKING STAND TO VERY SOPHISTICATED FULLY ENCLOSED BICYCLE STORAGE LOCKERS COSTING SEVERAL HUNDRED DOLLARS. BICYCLE RACKS COST ANYWHERE FROM $50 TO $600, DEPENDING UPON THE DEVICE AND SECURITY DESIRED.

QUESTION

5. WHAT ARE YOU PERSONALLY DOING TO EXPAND ACCESS BY BICYCLISTS TO PUBLIC BUILDINGS, BOTH FOR EMPLOYEES AND FOR VISITORS?

ANSWER

GSA HAS LONG BEEN AN ADVOCATE OF BICYCLE RIDING AND RECOGNIZES THAT IT IS AN EXCELLENT MEANS OF CONSERVING ENERGY, IMPROVING THE ENVIRONMENT, AND AIDING IN PHYSICAL FITNESS.

FOR QUITE SOME TIME, IT HAS BEEN GSA'S POLICY TO PROVIDE BICYCLE RACKS AT ALL GSA-CONTROLLED LOCATIONS WHERE THERE IS EVIDENCE OF A DEMONSTRATED NEED AND APPROPRIATE SPACE IS AVAILABLE.

FEARING THAT SOME FEDERAL EMPLOYEES WERE RELUCTANT TO COMMUTE TO WORK ON BICYCLES BECAUSE OF THE POSSIBILITY OF THEFT OF THEIR EXPENSIVE TWO-WHEELED VEHICLES, GSA DEVELOPED A NEW AND MORE COMPREHENSIVE PROGRAM WHICH SHOULD ALLEVIATE THESE FEARS AND ENCOURAGE MORE EMPLOYEES TO USE THIS MODE OF TRANSPORTATION TO COMMUTE TO WORK.

WHERE BUILDINGS SHOW A DEMONSTRATED NEED FOR ADDITIONAL BIKE RACKS OR MORE SECURE PARKING DEVICES WE HAVE INSTALLED THEM AND WILL CONTINUE TO WHERE DETERMINED APPROPRIATE. SOME OF THE NEWER PARKING DEVICES THAT HAVE BEEN INSTALLED WHERE THEFT WAS A PROBLEM, ACTUALLY ENCLOSE THE BICYCLE, SUCH AS A LOCKER. OTHERS SECURE BOTH WHEELS AND FRAME. IN ADDITION INSIDE PARKING IS UTILIZED WHERE FEASIBLE.

CLOTHING LOCKERS AND EXISTING SHOWER FACILITIES MAY BE MADE AVAILABLE FOR USE BY BICYCLISTS WHERE PRACTICAL.

IF A NEED IS DETERMINED, BICYCLE PARKING FOR VISITORS TO GSA FACILITIES ARE AVAILABLE.

QUESTION FROM SENATOR BENTSON

Houston, Texas FOB Project

Question

In the Public Buildings Service Master Plan submitted last year, there was proposed construction of a Federal building in Houston, Texas. It was to be funded in FY 1984. In its report accompanying S. 533, the Committee on Environment and Public Works urged GSA "to carry out the necessary work to include this project in an annual authorization for advanced planning and design as soon as possible." The PBS Master Plan now before use, dated February 16, 1982, pushes this project back to FY 1988. Why has the schedule for this building slipped four years?

Answer

In the FY 81-87 Facility Plan submitted June 1, 1981, the magnitude of the proposed construction and acquisition program was based on a key strategic posture statement that time-financing authority would be available to PBS for construction, purchase of existing buildings, and conversion projects. In the current FY 82-88 version, the time-financing assumption was necessarily omitted since it was omitted from the S. 533 language and OMB has gone on record as opposing this type of financing. Without this important financing mechanism, the construction program in any given year will be substantially reduced to only those projects that can be "fully funded" within Federal Buildings Fund resources. Thus, most projects "slipped" several years from last year's edition to this year's.

QUESTIONS FROM SENATOR MOYNIHAN

1. Please explain your recent action in requesting authority to reprogram funds from the Federal Buildings Fund for use to support GSA activities outside the Public Buildings Service. Has this reprograming taken place? Include a legal opinion on whether this violates section 5 and 6 under "GSA-General Authorities" of H.R. 4121, 97th Congress, 1st Session, which was referenced in P.L. 97-92, Continuing Resolution.

GSA's direct FY 1982 operating expenses appropriations were reduced by 16% in the third Continuing Resolution, enacted December 15, 1981. This Continuing Resolution has been extended from March 31, 1982 to September 30, 1982. Immediately upon enactment of this Resolution severe cost-cutting actions were initiated in an attempt to minimize the impact of these reductions on our direct operating expenses appropriations which are principally labor and space intensive. The results of these actions have been carefully scrutinized and projections of obligation rates for the remainder of the fiscal year were based on actual accounting reports as of March 31, 1982.

Actual and projected obligations for the fiscal year formed the basis for determining further actions required to stay within the appropriations available. The prioritization of mandatory programs in the direct appropriations requires the use of GSA's 3% transfer authority between these appropriations in certain instances. In addition, it was our initial intent, to the extent necessary and prudent, to require the Federal Buildings Fund to pay certain mandatory costs common to the agency for which the Fund has a significant share such as the postage bill from the U.S. Postal Service. The activities in the Federal Buildings Fund which would pay for these common type costs are similar to the activities of GSA's direct operating expenses appropriations. No violation of sections 5 and 6 would have resulted since FBF funds would not have been transferred to any other account but would have been used to pay suppliers directly.

The proposed use of the Federal Buildings Fund for priority requirements of the agency was concurred in by the Chairmen of our House and Senate Appropriations Subcommittees subject to their prior approval of specific actions needed to be taken. Since the Federal Buildings Fund's new obligational authority from user charges was not reduced in the Continuing Resolution, the use of the Fund to pay certain agency-wide mandatory costs would not have had an adverse impact on the basic real property program of the Public Buildings Service. However, the use of the Federal Buildings Fund to pay certain agency-wide costs does not appear to be necessary at this time due to the severe cost-cutting actions initiated in the operating expenses appropriations.

Section 6 of GSA's General Provisions in H.R. 4121 is a stand alone provision. It provides for transfers between activities in the Federal Buildings Fund to the extent necessary for mandatory program requirements in that Fund.

QUESTION

2. Mr. Carmen, since you have exempted the Archives from SLUC payments, have any other Federal agencies asked to be exempted in part or entirely from SLUC payments? If not, how will you answer them if they ask to be so exempted? What reasons did you give the Department of Defense last year in denying its request that SLUC for the Pentagon building be reduced or abolished?

ANSWER

2. No agencies have requested to be exempt from SLUC; however, if they were to request an exemption citing the Archives as an example we would explain that GSA's action with regard to the Archives Building was not in the nature of an exemption. Rather, based on the legislative history of Federal Property and Administrative Services Act of 1949 and the Federal Records Act of 1950 it has been determined that the National Archives Buildings is not subject to section 210(j) of the Federal Property and Administrative Services Act of 1949 which contains the requirements for the Standard Level Users Charge (SLUC). Accordingly, the National Archives will not pay SLUC but will be required to pay for all costs associated with the operation, maintenance, repair and alteration of this building. The circumstances which apply to the National Archives are unique and would not be applicable to other public buildings occupied by other Federal agencies.

With respect to the reduction of SLUC, the attached letter to the Honorable Edward R. Roybal addresses a Department of Defense (DOD) proposed provision in their FY 1982 Appropriations Act that would have limited the payment of Standard Level User Charges (SLUC) to GSA to fifty percent of the FY 1982 SLUC bill. Also, attached are GSA comments on statements contained in the DOD Committee Report relative to the subject Appropriations Act. The proposed provision was subsequently dropped.

Honorable Edward R. Roybal
Chairman, House Subcommittee
on Appropriations for Treasury,
Postal Service and General Government
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

It has come to our attention that a proposal is under consideration for the Department of Defense (DOD) appropriation act which will severly impair the ability of the Federal Buildings Fund (FBF) to finance construction projects proposed for FY 1982 and FY 1983, and in addition, has the potential to limit FBF income to such an extent that minimal operations could not be maintained without the benefit of a direct appropriation to offset the revenue shortfall.

The Appropriations Subcommittee for the Department of Defense (DOD) is currently considering including a provision in their FY 1982 Appropriations Act that would limit the payment of Standard Level User Charges (SLUC) to GSA to fifty percent of the FY 1982 DOD SLUC bill. Enactment of this provision would result in the loss of approximately $107,000,000 in income to the Federal Buildings Fund. This loss of resources would result in the reduction of the FY 1982 construction program, as contained in H.R. 4121 as reported by the Senate Committee on Appropriations, and also a reduction in the proposed FY 1983 construction program. (See Attachment A). The extension of this provision to other agencies, which would likely follow should this precedent be established, would destroy the concept of the Federal Buildings Fund. It would eliminate all available funding for construction and repairs and alterations projects and leave only 24 percent of the required funds for basic operations after making all contractual payments for purchase contract projects and leases. The shortfall in SLUC income necessary to operate and maintain Federal space would have to be restored through direct appropriations.

As an example of the equitableness of our DOD SLUC rates the following information is offered. The DOD nationwide FY 1982 average office SLUC rate per square foot is $8.76. According to the "Ninth Semi-Annual Survey of Office Market Conditions in 17 U. S. Markets and four Canadian Markets" (Howard L. Ecker, December 1980), the average office base rent per square foot nationally for new buildings in December of 1980 was $16.00, and $11.50 for old buildings. In the National Capitol Area, where DOD has approximately 50% of its space in the GSA inventory, the charges for office space per square foot based on the same report was $15.00 in December of 1980 for both old and new buildings while the average FY 1982 SLUC for DOD office space in this area is $9.36. Obviously, the DOD SLUC rates for FY 1982 are not out of line and, if anything, are understated.

This proposal if approved, would obviate one of the basic objectives of the Congress in establishing the FBF; to reflect in each agency's budget their share of the cost of providing Federal space, and thus, require each agency to justify its total program costs to its appropriation subcommittees. Arbitrarily reducing the payment of SLUC distorts these legitimate program costs of the agency.

We respectfully request that you intercede with the appropriate subcommittees to prevent any further consideration of this proposal. Your assistance in this matter will be greatly appreciated.

Sincerely,

(Signed) [illegible]

ATTACHMENT A
Construction Projects to be Deleted
Under 50% FY 1982 SLUC Reduction
for the Department of Defense

I. From FY 1982 program as contained in H.R. 4121, as reported by the Senate Committee on Appropriation.

A.	San Luis, AZ Border Station	$ 6,866,000
B.	Ashland, KY Courthouse, FB	8,339,000
C.	Omaha, NE Federal Office Bldg.	4,566,000
D.	Charleston, SC Post Office, CH	5,400,000
E.	Advance Design Work	5,000,000
		$30,171,000

Deletion of the above projects in FY 1982 is necessary to maintain an approximate 2% unapplied balance in the Federal Buildings Fund (FBF). This estimated balance is the minimum necessary to cover possible shortfalls in income or unforeseen contingencies requiring supplemental appropriations. The FBF income projection is based on the best information available at the time; however, changing circumstances in the overall GSA space inventory can cause the actual income realized to be less than estimated. In the past three fiscal years (FY 79-81) this shortfall has amounted to 2.3%, 2.2% and .1%, respectively. During this period of declining Federal employment, it is probable that the agency space needs will decline, thus causing a drop in SLUC payments.

II. The loss of income in FY 1982 will also have a significant impact on the ability of the FBF to finance a FY 1983 construction program, even if it is assumed that DOD and all other agencies will pay their full SLUC bill in FY 1983.

DoD Committee Report

"the GSA charges rent for buildings that DoD built with monies appropriated to DoD for military construction, not by the Public Buildings Service. In essence the military budget has reflected payment for the same building twice."

GSA Comment

We assume that the reference on the report with respect to rental charges for buildings constructed with appropriations to the Department of Defense refer to the Pentagon. Construction of the Pentagon was authorized by the First Supplemental National Defense Appropriation Act, 1942, 55 Stat. 085 (1941), that act provided:

> That the maintenance and operation of such building shall be under the jurisdiction of the Public Buildings Administration (now GSA) and such Administration may assign any space therein surplus to the needs of the War Department to any other Federal agency pending the need thereof by such Department. 55 Stat. 686.

From 1941 through the establishment of the FBF in 1975, DoD paid no annual payments to GSA for use of the building. The cost of maintenance, repair and operation during that period were funded by appropriations to GSA and its predecessor agency, not to DoD, and undoubtedly exceeded the total construction cost of $83 million. For example, in 1981 alone GSA's cost for providing the above services were $20 million.

DoD Committee Report

"General Services Administration is also generally delinquent in notifying the services of increases in rental rates so that the budget submitted to the Congress for any fiscal year would be substantially understated from what would actually be required by the Department of Defense for reimbursement to GSA."

GSA Comment

GSA provides all Federal agencies budget estimates for each building in which they occupy space as of March 15th of the Budget Year minus two at rates which GSA guarantees will be in effect for the Budget Year. In addition and at the same time, GSA provides SLUC estimates to the agencies for the Budget Year of increases or decreases in space requirements which the agencies advise GSA they anticipate from March 15th of the Budget Year minus two through the Budget Year. These estimates are provided in April of the Budget Year minus two, in ample time for inclusion in agencies OMB and Congressional budget submissions. Any variances between the estimates GSA provides and the actual SLUC charges are primarily attributable to changes in the amount or type space the agencies actually occupy in the Budget Year from what they occupy as of the date of the estimates. These changes are generally known and controllable by the agencies and it is their responsibility to budget for them.

DoD Committee Report

" . . . GSA raised the rental rates by 65 percent in Fiscal Year 1981 alone after the budget was submitted to the Congress."

GSA Comment

The SLUC budget estimate provided to DoD in April of 1979 for the Fiscal Year 1981 budget, adjusted for the delegation to DoD to acquire space for recruiting stations in Fiscal Year 1981, was $210.2 million. The actual GSA Fiscal Year 1981 SLUC billing to DoD was $206.0 million. Thus our estimate was $4.2 million, or 2 percent, above their actual requirements. The statement contained in the Committee report is obviously erroneous.

DoD Committee Report

"It appears that GSA uses the inflated reimbursements from the Department of Defense to construct new space for civilian agencies while DoD generally must ask the Congress directly for its own appropriation for construction. In other words, it appears that the DoD is subsidizing the construction and space requirements of civilian agencies of the government since the DoD rarely has facilities constructed for it by GSA."

GSA Comment

The DoD nationwide FY 1982 average office SLUC rate per square foot is $8.76. According to the "Ninth Semi-Annual Survey of Office Market Conditions in 17 U.S. Markets" (Howard L. Ecker, December 1980), the average office base rent per square foot nationally for new buildings in December of 1980 was $16.00, and $11.50 for old buildings. In the National Capitol Area, where DoD has approximately 50% of its space in the GSA inventory, the charges for office space per square foot based on the same report was $15.00 in December of 1980 for both old and new buildings while the average FY 1982 SLUC for DoD office space in this area is $9.36. Obviously, the DoD SLUC rates for FY 1982 are not out of line and, if anything, are understated.

One of the basic objectives of the Congress in establishing the FBF was to reflect in each agency's budget their share of the cost of providing Federal space in public buildings, and thus, require each agency to justify its total program costs to its appropriation subcommittees. To fail to appropriate the required funds without a corresponding reduction in space will require that other agencies bear more than their proportionate share of the total Federal space cost or that the deficit be made up through a direct appropriation to the Federal Buildings Fund.

DoD only pays GSA for space it occupies in public buildings and we are not aware of any space constructed from funds appropriated directly to DoD since 1950 for which DoD is paying standard level user charges. Space constructed by DoD would have been located on a military installation and is not classified as a public building. Any such non public building constructed by DoD would not be subject to the standard level user charge established

pursuant to the Public Buildings Amendments of 1972. The FY 1982 Presidents budget is consistent in its presentation of construction needs for both GSA and DoD and it does not reflect any policy of funding new construction by DoD for the purpose of replacing space in public buildings for the purpose of avoiding space user charges to GSA. It should also be noted that prior to 1975 DoD was provided all of its space in public buildings without cost to DoD appropriations since these funds were appropriated directly to DoD and its predecessor agencies.

DOD Committee Report: "The Committee has reviewed the annual position of the reimbursements of the General Services Administration and found that the receipts from SLUC rental from Federal agencies exceeds the cost to GSA by some $400 million."

GSA Comment: In 1982 GSA expects to collect $1,829 million in SLUC income on a space inventory of 232.5 million square feet. Exclusive of proposed new construction projects in the amount of $28 million, the total Federal Buildings Fund FY 1982 program is $1,796 million. This program level will result in only $33 million of unapplied 1982 SLUC income. This anticipated balance is $367 million less than the $400 million figure cited in the Committee report. The $400 million figure cited as excess income in the Committee report most probably refers to the $431 million unobligated balance shown in the 1982 President's Budget as revised by President Reagan. The "unobligated available balance" represents direct income from prior years authorized for long-term new construction and repairs and alterations projects, not yet completed, in the amount of $211 million and reimbursable income received from other Federal agencies for long-term projects not covered by SLUC, not yet completed, in the amount of $125 million. Also included in the $441 million balance is the "unobligated unavailable balance" in the amount of $95 million. This figure represents the cumulative (from 1975) amount of SLUC income collected and retained in the Fund after covering all costs of the FBF programs from 1975 through 1982 estimated. Thus, from 1975 to 1982 the Fund expects to accumulate only $96 million in unapplied income. This averages out to only $12 million per year in unapplied income.

QUESTION

3. I understand that, should we authorize the $3.5 million for advance planning of the Federal Triangle building, you may hold a design competition to select a project architect. Did you not already conduct a design competition to select the architects who have produced the master plan for the Triangle and the conceptual design for the building? Why do you consider another competition necessary? Would this not delay the project and interrupt the continuity of work?

ANSWER

A competition was held to select the master planners for the Federal Triangle. Their work is almost completed.

The scope of their work was to develop a master plan for the completion of the Federal Triangle. As planners, they explored the alternate approaches toward the development of the vacant space in the Federal Triangle along with the environmental impact of each scheme. From the various alternatives GSA then chose a plan which best meets the goals of the Government. This plan will now be submitted to the NCPC and CFA for approval as well as to Congress for authorization and appropriation of funds.

Once these approvals have been granted, a design competion will be held to choose the best architect to design the building to be built in the location indicated in the master plan.

The design of the building indicated in the planning documents is only for presentation purposes and does not represent the final design of the building(s) to be erected on the site.

The competition process as conceived will not delay the project. The continuity of work is now dependent on approvals by NCPC, CFA and the Congress.

QUESTION

4. The National Capital Region of GSA is apparently negotiating a contract to have outside consultants carry out a space survey of GSA-controlled offices in the Washington area. I am told that the contract will provide only a one-time inventory and will not lead to a system that would be continually and accurately updated. Isn't this latter system what you really need, particularly in light of your new emphasis on space utilization improvements? Please provide a report on the cost and expected benefits of this contract.

A. The National Capital Region of GSA has awarded a one-year term contract to an outside consultant for drafting services to update floor plans for part of the regions' space inventory. Under the terms of the contract, GSA can authorize the contractor to inspect and update floor plans for as much as 24 million square feet at a cost of $232,800 (.0097 cents/square foot). However, due to the present funding limitation, this total may not be attainable.

The one-year term of this contract was not chosen by the regional office, rather the procurement regulations for term contracts prohibit awarding this type contract for a longer period. Dependant upon the regions' need for additional service next year and the availability of funds, GSA will solicit for another drafting services contract early next year.

In view of the increased emphasis on space utilization, it is essential that the inventory floor plans be up-to-date. This will enable GSA to quickly determine the amount, type and physical limitations of an agency assignment or proposed assignment. Without accurate data many phases of the space management program could not be accomplished with any degree of confidence. Inaccurate floor plans can result in delays in space occupancy, additional costs for design and construction corrections, user agency dissatisfaction, space assignment errors and incorrect SLUC assessments. These are a few examples of how the use of out-of-date data can adversely effect GSA's space management program mission.

QUESTION

5. Please furnish us with a history of negotiations on the lease construction project in Tallahassee, Florida.

ANSWER

5. A Solicitation for Offers for 72,118 net usable square feet was issued to prospective offerors on September 12, 1980. Offers were due by November 11, 1980.

Offers were reviewed and offerors advised in writing as to what steps would be required to make their offers fully responsive. Five responsive offers were identified and negotiations commenced on January 21, 1981. Negotiations were terminated, and best and final offers requested by January 30, 1981.

The net rent in all five final offers exceeded $500,000 and efforts to negotiate further reductions during February and March, 1981, were unsuccessful.

On April 4, 1981, offerors were advised that because all of the offers exceeded the $500,000 net rent limitation, it would be necessary for GSA to seek Congressional approval to make an award. They were requested to extend their offers through June 1, 1981, to allow additional time for GSA to obtain that approval.

On May 7, 1981, a report was forwarded to the Public Works Committees of Congress requesting approval of the project at a net annual rental of $549,130.00. With services and utilities added, the total annual rental proposed was $738,606.00, an amount consistent with the proposal submitted by the lowest responsive offeror.

In response to a GSA request of August 26, 1981, all 5 offerors agreed to further extend their offers through December 31, 1981, to allow for sufficient time for Congressional review of the proposed project.

On November 5, 1981, the House Public Works Committee approved the project at the recommended cost.

The low offer provided the required space for a twenty year term with an annual escalation clause to cover increases or decreases in tax and operating costs. GSA had also obtained a no-cost assignable option for a site on which the facility was to be constructed. Both the offer and option were to expire on December 31, 1981. Extensions on each were obtained through February 28, 1982, in order to allow time for the successful offeror to effect a closing on the site.

An award was made on December 29, 1981, and the offeror, Hobbs Construction and Development Company of Panama City Florida, obtained the site. The site is currently being cleared and completion of the facility is scheduled for February 1, 1983.

Advance Design Work-Portland, Oregon

Question

6. P.L. 97-92, the Continuing Resolution, provided GSA with $5 million for "advance design work." Some of that will be spent on a building in Portland, Oregon. Please tell us how much. Provide a short explanation of the need for the building, its proposed tenants, and its eventual cost. On what other projects will the remainder of the $5 million be spent?

Answer

GSA proposes to construct a Federal building in Portland, Oregon, to primarily house the Bonneville Power Administration (BPA). Secondary tenants will be the Departments of Agriculture, Commerce, and Interior (DOI), Congressional offices, and the General Accounting Office. The total project cost will be approximately $70,775,000.

The BPA occupies about 315,600 square feet of space on the Eastside of Portland. It is the principal tenant of the Federal Building at 1002 NE. Holladay Street, which is not large enough to accommodate BPA's remaining space requirements of 150,200 occupiable square feet now located in five leased locations on the Eastside. The fragmentation of the BPA in these six locations severely inhibits agency performance and efficiency. As a result of increasing responsibilities, BPA's space requirements are also increasing. BPA will need an additional 11,000 square feet by Fiscal Year 1983.

The DOI agencies in Portland occupy seven Eastside leased locations containing about 196,200 square feet of office space and 16,500 square feet of interior parking. These offices have had no centralized source of administrative services since 1977, when the BPA was transferred from DOI to the Department of Energy. The existing Federal Building will be renovated and occupied by DOI after BPA moves into the new building.

We anticipate that most of the $5 million will be used for the Portland project for design and GSA review of design. We will evaluate the utilization of any funds not allocated to the Portland design during the next cycle of Planning and Project Review Board meetings, scheduled for this summer.

US Mission to the United Nations

Question

7. The FY 83 budget request includes over $2 million for an extension to the US Mission to the UN. This project bears an exceedingly high cost per square foot. Describe the reasons for the high cost and alternative means of meeting the US Mission's needs that you may have considered. Please provide any documentation you have from the State Department substantiating the need for the space and this particular response to those needs.

Answer

7. The reasons for the high cost of this project are:

1. The existing structural system cannot support the proposed expansion.
2. An exterior elevator shaft and elevator are required.
3. The existing column footings and base plates must be enlarged and reinforced.
4. The existing structural steel columns are to be reinforced.
5. To accomplish the work, a tower crane must be placed on the plaza thus requiring shoring and reinforcement of this area.

The alternative means of meeting the U.S. Mission's needs were:

1. Acquisition of leased space.
2. Replacing the existing building with a larger building.

The additional space is needed to satisfy the needs of agency personnel who come to New York when the U.N. General Assembly is in session. These people work very closely with the Mission's permanent staff members who are located in the main building. The leased space would be located in a building removed from the U.S. Mission Building. This alternative would be disruptive and is unacceptable to the Department of State.

The replacement of the existing building with a larger building was rejected because of the comparative building location and the small amount of space needed. The U.S. Mission Building is located across the street from the U.N. General Assembly Building in an area which is intensively developed. A replacement building would be relatively poorly located. The small amount of space needed can be more prudently and reasonably provided at the present location than elsewhere.

A copy of a letter from the Deputy Assistant of State for Operations to GSA, substantiating the need for the space, is attached. A representative of the State Department recently reaffirmed this need and said the State Department is willing to provide hearing witnesses to testify to the need.

DEPARTMENT OF STATE
Washington, D.C. 20520

SEP 4 1980

SEP. 4. 1980

Mr. Allan Greenberg, Acting
Director Space Management Division
General Services Administration
Region 2
26 Federal Plaza
New York, New York 10007

Dear Mr. Greenberg:

This refers to your recent conversation with Mr. Roland Gahn, Chief of our General Services Division, regarding the request by the USUN to add 2 floors to the existing USUN Building at 799 United Nations Plaza (Bldg. No. NY0242.ZZ). It is my understanding that your Building Services Division has confirmed the feasibility of the project.

In accordance with Federal Property Management regulations, we are submitting the enclosed information in support of this project for inclusion in your prospectus.

We would like to arrange a meeting with you or your designated representatives to discuss other relative information that may be needed to obtain the necessary funding for this project.

Your personal attention will be very much appreciated.

Sincerely,

M. Virginia Schafer

M. Virginia Schafer
Deputy Assistant Secretary
for Operations

Enclosure

NY-1: 84-1

QUESTION

Mr. Carmen, what is the SLUC rate charged to National Park Service offices in the Pension Building? How does it compare to SLUC rates at other office buildings occupied by National Park Service? If the SLUC rate in the Pension Building is higher than that at other locations, would that not discourage Federal agencies from maintaining their offices in the Pension Building? Should or can this SLUC rate be adjusted?

ANSWER

The Fiscal Year 1982 SLUC office rate per square foot is $11.29. This rate is charged to all tenants in the building.

The National Park Service has space assigned to it in the following 4 buildings located in Washington, D.C. The SLUC office rate per square foot for each building is shown as well.

	Office SLUC Rate
740 Jackson Place, NW	$12.53
1055 Thomas Jefferson Place, NW	11.01
The Pennsylvania Building 425 13th Street, NW	15.45
1020 11th Street, NW	8.24

The average Fiscal Year 1982 office rate for buildings in Washington, DC is $11.84. The rate for the Pension Building is below this average and, therefore, should not deter agencies from maintaining their offices there. Numerous factors, other than space costs, are considered in deciding to retain or accept space such as relocation costs, suitability of space configuration to the agency's mission, location of the building, quality of the space and size of the parcel available for assignment.

The rate for the Pension Building was derived from a Fair Annual Rental (FAR) appraisal performed by a private appraiser. It was developed under GSA procedures, approved by the Office of Management and Budget, to insure that SLUC rates are equivalent to those charged in the commercial rental market in accordance with the Public Buildings Amendments of 1972, 40 U.S.C.A. 490(j). This rate can only be adjusted if it is found to be in error under the SLUC appeals procedures contained in the Federal Property Management Regulations (FPMR 101-21.606.)